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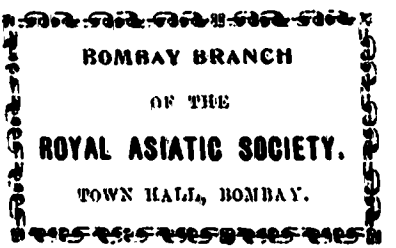

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STATE

OF

THE CAPE OF GOOD HOPE,

IN 1822.

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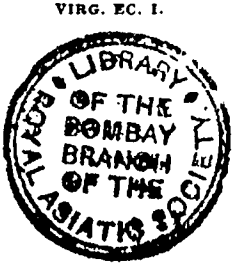

LONDON:

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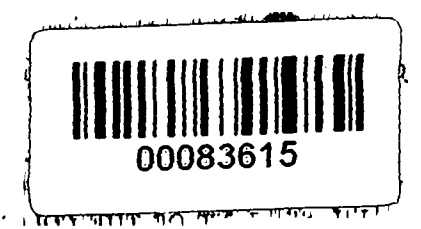

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TO

THE RIGHT HONOURABLE

DUPRÉ, EARL OF CALEDON;

THE STATE OF THE CAPE OF GOOD HOPE,

IN 1822,

IS DEDICATED,

IN TOKEN OF GRATEFUL REMEMBRANCE,

BY

A CIVIL SERVANT OF THE COLONY.

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PREFACE OF THE EDITOR.

THE work, which is here presented to the public, was entrusted to me for that purpose by a gentleman resident in South Africa, and well qualified by the opportunities of observation which he has enjoyed, during a long abode at the Cape, to describe minutely and correctly its actual state; its public establishments; its commercial relations; and the condition of its inhabitants. In undertaking and performing the task of Editor, I have hoped to render to the public a service not altogether unacceptable; considering the interest which may attach to an authentic account of a colony, important for its position midway between Great Britain and the British Indian Empire, and the colonies in Australasia; important too, for its extent and presumed capacity of improvement; and the consequent selection of it for an experiment of direct encouragement to colonization.

In more than one visit to the Cape of Good Hope, I have had occasion to see so much of the colony, as enables me to testify the author's accuracy as to facts; and the invariable truth of his premises; though the conclusions from them are not always precisely what I might be disposed to deduce from the same grounds. In a few instances, therefore, I have inserted brief Notes at the foot of the page; and subjoin a few Annotations on topics of interest, upon which I am desirous of delivering my own sentiments at greater length. It is hardly necessary to add, that I am not to be understood as implicitly adopting every sentiment in the text, from which I have not expressly dissented; and that I answer to the public for the authenticity only of the work, which I now present to its notice.

H. T. COLEBROOKE.

Dec. 1822.

ADVERTISEMENT

TO

THE READER.

In offering "The State of the Cape of Good Hope" to the public eye, the writer claims the indulgence usually granted to those, who, without pretension to extraordinary purity and correctness of style, endeavour to give a plain narrative of whatever may have attracted general attention. That the Cape of Good Hope has excited a considerable degree of interest in the British Nation, cannot be denied; and it may, therefore, be hoped, without presumption, that the attempt of an individual, to lay before his readers, an accurate account of the establishments, and state of that Colony, will be received with favour.

To those, who have assisted the writer, by giving him the information which he has required on various points, he begs leave to present his most sincere and grateful acknowledgments.

A CIVIL SERVANT OF THE COLONY.

STATE

OF THE

CAPE OF GOOD HOPE.

CHAPTER I.

In the year 1795, the Cape of Good Hope was captured by the British arms, under Sir James Craig; and in May, 1797, Lord Macartney arrived there, to take charge of the government, accompanied by Mr. Barrow, his secretary.

In 1802, the Cape was restored to the Dutch by the peace of Amiens; and again taken in 1806 by Sir David Baird.

Subsequent to this surrender, but in the same year, Mr. Barrow published the second edition of Travels into the Interior of Southern Africa, undertaken by him in July, 1797, in order to collect information for Lord Macartney, lately arrived to take upon him the government.

These Travels, originally published in 1803, being the first detailed English account of the colony of the Cape, after its capture in 1795, excited a considerable degree of interest; and the public expectation was not disappointed by a work, comprehending every thing which came under Mr. Barrow's personal observation during his tour, together with what he drew from those authentic sources and public documents to which, it is presumed, being secretary to Lord Macartney, he had that unlimited access, which the jealousy of office too frequently denies to other persons.

Whatever variations may occur in human affairs, the properties of a mineral, the form of a flower, and the shape of an animal, remain unchanged, whether described by Linnæus and Buffon, or by any modern author. A mountain retains its height and figure, and a river its course, unless the one be shaken, or the other diverted by some extraordinary convulsion of nature, of which none have taken place within memory of man in this part of the globe. Those portions,

therefore, of Mr. Barrow's book, which relate to the works of God, and not to the institutions of man, if originally described with precision, remain unaltered; and to restate them in other words, would probably be to describe indifferently that which has been already brought with so much ability before the public.

If there be any thing in the mineral, vegetable or animal kingdoms of South Africa, omitted or unexplained by Mr. Barrow, or by subsequent writers; the public may hope to find it supplied in the expected work of the French naturalist M. Lalande. That gentleman, during the years 1819 and 1820, formed a collection of the natural curiosities of South Africa for the French government, by whom he was to be liberally remunerated for the scientific manner in which he performed his duty, and by whom also he was provided with funds necessary to enable him to make such indefatigable researches. Under this powerful encouragement, M. Lalande sent home the most enlarged and splendid collection that ever left South Africa, in which are to be classed 1500 hitherto undescribed insects.

It is due to M. Lalande to bear testimony to his readiness in communicating information, and in gratifying the curiosity of the Cape inhabitants, by a free admission to his magnificent museum.

After a full acknowledgment of the merit, even at the present moment, of Mr. Barrow's travels and those of others, it is to be remembered, that the lapse of years produces change, if not always improvement, in the affairs of a colony. The wants of a child are increased as he advances towards manhood; and the gradual progress of the Cape, since 1806, has rendered many alterations necessary and unavoidable. Original establishments have been enlarged or abandoned, and new ones formed, better suited to the circumstances of the day.

In addition to the ordinary changes, naturally flowing down the stream of time, events have taken place important in the history of the world, some of which bear with decisive influence on the prosperity of the Cape.

The first important event, after the capitulation in 1806, was the abolition of the slave-trade. During the occupancy of the Cape by the English, from 1795 to 1802, some cargoes of slaves were imported, although the traffic was then beginning to be odious. Slaves were also landed in 1807,

one year after the second capture, and one year previous to the abolition; which, taking place in 1808, may be considered as having at the time some immediate influence; and which must, before this period, have had a perceptible operation on domestic life, as well as on the habits, manners and morals of the inhabitants.

The next event in the order of time, is the passing of the acts of parliament of the 21st July and the 13th December, 1813, which opened a trade from the Cape to the East Indies, and included it within the limits of the charter of the East India Company, yet preserving the relative situation with Europe as to general commerce.

The third and ruling event, without which both the prior and subsequent ones (whether beneficial or not) would have become a dead letter, was the convention of the 13th August, 1814, done between the King of Great Britain and the King of the Netherlands. By that treaty the Cape of Good Hope, and its territories, were ceded in perpetuity to the British crown, and admitted to share in the importance of the mother-country, and in the benefits of her commercial power.

A fourth event was the captivity and the detention of Napoleon Buonaparte, at the island of St. Helena, in 1815.

The immediate and continued necessity of supplying that island with flour, cattle, wine, and other articles for the use of the navy, the army, and of the captive, with his train of followers, operated with immense power on the Cape, and has been the hot-bed of its productions; forcing, by a continued demand, the utmost powers of its agriculture, in order to produce corn (wheat, barley and oats) for Saint Helena, as well as for its own increasing population.

The recent death of Napoleon caused a considerable revulsion, of which the effects would, in case of abundant harvests, have been more fatal to the agriculture of the colony, had not a large full-grown population dropt suddenly upon the Cape some months previous to Buonaparte's death, prepared to replace, by increased home consumption of its produce, the loss of the market of Saint Helena. In April, 1820, and in the following months of that year, more than four thousand British subjects arrived at the Cape of Good Hope, having abandoned the land of freedom in search of such independency and abundance of food, as they considered to be out of their reach in Great Britain, but

which they confidently, but erroneously, expected to find at the Cape, without much labour.

The last measures, which appear to affect the Cape in any degree, are an order of council of the 12th July, 1820, which permits foreign friendly nations to import into the colony their manufactures or produce, except iron, cotton, steel and woollens, on equal duties with England, and to export Cape produce and any manufactures or articles landed there; and an act of parliament of the 2d July, 1821, legalizing the Indian as well as other trade, from the Cape to any port or place belonging to princes, states and countries in amity with his Majesty. A most important concession, opening the Cape trade in colonial or British vessels for India goods, direct to the dominions in Europe, America, the West Indies and the Mediterranean, belonging to foreign potentates: a trade, which, till this day, (except in the case of Malta and Gibraltar,) has been jealously monopolized by Great Britain.

Without pausing here, to consider the degree in which each of these ruling events may have accelerated or retarded the progress and wealth of the colony, it will remain chiefly with the reader to estimate their separate and combined influence, and to draw his own conclusions from the statements here offered to his notice, assisted by other writings on the same subject.

Few persons are unacquainted with the various publications which have appeared of late, particularly since the adoption of the plan for sending settlers to the colony, But as these have been chiefly written for a popular, temporary purpose, without adding any material information to that which is contained in Barrow and others, they do not seem to interfere with the object of this work; which is, to offer to the reader a short but general account of some of the principal establishments of the Cape, as they now stand in July, 1822, together with those remarks which have occurred to the writer on a general consideration of the state of the colonists and of the colony of the Cape of Good Hope.

It may not be unwelcome to those who regard with anxiety the rise and progress of colonies, to compare these statements of the population and commerce at the end of 1821, with those of Mr. Barrow; nor can it be wholly without use to the settler, to be made even slightly ac-

quainted with the laws, character and government of the country of his adoption, and to learn the nature of institutions and establishments, differing materially from those to which his attention has been hitherto directed and his obedience required, in his native land.

CHAPTER II.

GOVERNMENT—COURTS OF LAW—FISCAL—CAPE PRISON —OFFICERS OF THE CAPE DISTRICT—MATRIMONIAL COURT—AND SEQUESTRATOR'S OFFICE.

SECTION I.

Government.

THE executive authority of the Cape is vested in one person, nominated by the Crown, bearing the title of "Governor and Captain General of His Majesty's Castle, Town and Settlement, of the Cape of Good Hope, in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice-Admiral of the same."

If it be true, as has been observed by writers on political subjects, that despotism, or the absolute government of one, is bad in principle and good by accident; it must be confessed, that accident has greatly favoured the colony; for in a series of governors since 1806, every one has contributed to the improvement of the colony, and administered power in a mild and equitable manner.

It would be unpardonable in any one who lived under the government of the Earl of Caledon, to omit paying the tribute of deserved praise, to the conduct and character of that nobleman during his administration of power. His plans were the result of sound sense, acting upon a benevolent and enlightened mind, with a view to the happiness of others. Three measures of a different nature (one adding to the security and moral improvement, another to the personal enjoyments, of the inhabitants, and the third giving protection to a dispirited and oppressed nation, the natural owners of the soil) deserve particular notice.

The establishment of an annual circuit, through the dis-

tant drostdys, of two justices of the court, by rotation, for the first time in May, 1811, had the immediate effect of convincing the orderly and well-disposed, of the constant and early protection of the government. It checked the lawless conduct of the Borderers, and the hitherto unrestrained violence of the Boers; both of which, before that time, passed unnoticed for a long period, and often remained wholly unpunished. It did that also, which is gratifying to the feelings; for it frequently relieved, by a speedy trial, an accused, but innocent individual, from suspicion or from confinement, and restored him to character and to society. In addition to this annual circuit, Lord Caledon made it a part of the bounden duty of the landdrost, to pay an annual visit of inquiry at the station of each veldt cornet in his drostdy, and who was instructed to give previous public notice of the day of his arrival, in order to prepare the inhabitants and slaves to bring forward any existing complaints for his information and that of the heemraden.

Another measure was productive of domestic comfort. Those, who have never resided in a hot climate, can form no idea of the blessing of a plentiful supply of water. A scarcity of it is one of the curses of South Africa. But the springs in and under Table Mountain are abundant and pure. These springs, in the Dutch time, flowed into two reservoirs in the lowest part of the town; and to carry water, for the bare supply of a family, was the entire occupation of one slave. Lord Caledon laid down iron pipes, imported from England, conveying a plentiful stream to pumps in every street; thus conferring on the inhabitants an invaluable benefit, for which gratitude pours forth its daily and hourly acknowledgments.

Part of Cape Town is on a hill; and the Dutch inhabitants, not much versed in hydraulics, being assured that the water would be brought up to them, replied "that they had seen the English do extraordinary things, but they were not so stupid as to believe that water would flow upwards."

The third measure rescued the Hottentots from a system of hardship and cruelty, practised towards them by the Boers, which would, in the course of a short time, have extinguished the race. So great was their terror of these barbarous masters, that it was in the dead of night, when

unseen by their vindictive employers, they ventured to communicate their wrongs, and to implore the mercy of the governor, at that time on a journey through the frontier. The proclamation (Appendix A.) was the happy consequence of this application. Succeeding governors have, in their turn, added new and useful regulations; but power recently exercised is not to be censured nor to be applauded, without the suspicion of malevolence or of flattery.

Notwithstanding the good fortune of the Cape, in the character of those who have hitherto ruled the colony, it may be thought, that a period is approaching, in which the government of one, being bad in principle, may produce that dissatisfaction to which it is thought liable, at an earlier period than it would have occurred in the gradual progress of society.

The rising importance of the colony, and the sudden increase of British population, presumptuous if successful, clamorous if disappointed, asserting, from the habits of early life, a right to canvas, to censure, or to applaud, the justice of every act of government, will teach the inhabitants to become discontented, without the appointment of some power standing between the absolute will of the governor, and the submission of the governed.

Acts of parliament renewed for prolonged periods, and still in force, enable the King, with the advice of his council, to regulate the trade and commerce of the Cape of Good Hope. Various orders in council have been issued for that purpose, as the necessity arose. Where no order of council, or special act of parliament, operates, a proclamation, having the effect of law, is issued by the governor. To these frequent proclamations, obedience is due; and although they must be eventually referred home, to the colonial secretary of state, for approval and confirmation, in order to their permanency, yet being acted upon when issued, great and serious oppression may possibly be felt for many months, by the public or by an individual, occasioned by the hasty or erroneous opinion of ONE. The Cape is not, as yet, of sufficient growth and importance, nor does it afford rational expectation of an accumulation of wealth and future greatness, sufficient to require a legislative assembly, * as

* In every thing except their foreign trade, the liberty of the English colonists to manage their own affairs their own way, is complete. It is, in every respect, equal to their fellow-citizens at home, and is secured

is the case in the West Indies. Yet it may, in course of time, expect to see the establishment of a council, or of some board, holding power in check, and making a pause between the will and the deed of a governor.

The minutes of a council, on any measure where the decision of a governor is, in the council's opinion, questionable, may produce great and beneficial effect, by creating doubts and forcing discussion; but above all, by throwing such responsibility on a governor, as may place at hazard his fame, and the duration of his power, if he perseveres in pertinaciously resisting the dictates of good sense, of reason, or of law.

There are a secretary and a deputy secretary allotted to the government department, appointed in England; and also an assistant secretary, appointed at the Cape. The duty of the secretary, and in his absence, of the deputy secretary, is to refer to the governor, the multifarious memorials and occurrences of each day, with a precis of every one, and to receive his decisions thereon, causing them to be put in force. A general correspondence with the offices at the Cape, with the magistrates, and with all parts of the colony, is carried on by the secretaries. All deeds of mortgage are prepared in their office, excepting those to the loan bank and orphan chamber; as are also transfers of landed property; all of which are passed before commissioners to the court of justice, and entered in the public registers of the office. Grants of land are prepared and issued; the financial arrangements of the government are conducted, and the proclamations and regulations of government emanate hence. The state of the currency, the register of strangers, the detail of vessels arriving and sailing, and all statistical returns, of population and of produce, are objects of the duty of the secretaries. These gentlemen are secretaries to government, not of the governor; nor are they advisers in virtue of their situation, but only so according to the confidence the governor may

in the same manner by an assembly of the representatives of the people, who claim the sole right of imposing taxes for the support of the colonial government. The authority of this assembly overawes the executive power, and neither the meanest nor the most obnoxious colonist, as long as he obeys the law, has any thing to fear from the resentment, either of the governor or of any other civil or military officer of the colony.—*Smith's Wealth of Nations*, Book iv. part ii.

repose in their judgment and capacity, whenever he may think it expedient to call for their opinions.

The attendance of the secretaries is daily; the entire business of the colony going through their office; which acts as the main spring of the machine, forcing all into motion. For punctuality and regularity, and for the dispatch of a very great weight of affairs, this office cannot be surpassed. The current business has of late been greatly multiplied by the location of the settlers, and by their impracticability, as well as by the establishment of new drostdys, requiring unceasing attention and uninterrupted correspondence.

The assistant secretary receives memorials and papers, acting in affairs of routine, and relieving the secretaries from much of the practical parts of business. There are also young gentlemen in the office, descended from the best Dutch families of the colony, but themselves born in South Africa. These young Cape-born Dutch (for it would be thought an affront to call them Africanders) are initiated into all colonial transactions in this office, which is the nursery, or, as the French would term it, "la pépinière," for future landdrosts, and for the heads of many of the departments.

SECTION II.

Courts of Law.

The court of judicature consists of one chief justice, and eight justices, with their usual accompaniment of secretaries and clerks, &c.

Before this tribunal, the doors of which were formerly closed, but to which all persons are now admitted, except pending deliberation, the most important civil and criminal business of the colony is transacted. Five, out of the eight justices, make a full court for the trial and determination of all civil cases; and where the chief justice does not attend by reason of sickness, or other unavoidable cause of absence, or in consequence of any of his relatives being interested in the suit, the senior justice acts as president. Previous to the court proceeding in a civil suit, the business is referred to the sitting monthly commissioner, who is one of the justices; in the hope of putting a stop

to further expense, by effecting a reconciliation, or private arrangement between the parties.

If unsuccessful, he makes his report to the full court; and the suit goes on. If it be for the payment of a bond, or a note of hand, unless the defence rests upon a point of law, the defendant is provisionally condemned to pay the debt and expenses, under security for the restitution, if the principal case be decided in his favour. Except in matters of a very intricate and perplexed nature, the advocate conducts the business to its final sentence, without the assistance of an attorney.

The pleadings in a contested suit are in writing, and delivered into court during the different periods or terms assigned to the parties, after which it is placed by order of the court, on the pleading roll, ready for judgment. The testimony, or evidence, is committed to writing before a notary public and two witnesses, and is to be verified, before a justice, on oath. Before and after such oath, the witness is liable to cross-examination by the adverse counsel. The judgment, or decision, of the court, after having heard all which the advocates have to allege in their speeches and replies, is founded upon the colonial laws, and those enacted for the administration of justice in Dutch India; the latter of which were collected in one body, towards the end of the seventeenth century, under the title of "Statutes of India," and declared to be law in this colony, by proclamation of February, 1715; and the court of justice is directed, in points where these laws might be found deficient, to recur to the civil law (Corpus Juris Civilis); but as there are some particulars in the Dutch law not regulated by the civil law, recourse must then be had to the law of Holland, which the court of justice has been instructed to observe. The decision of the court is declared by the majority of opinions, beginning with the junior; but, should the number be equal, the chief justice has a casting voice. These opinions, and the grounds of them, are not declared in public, nor is there a summing up, as is done by the judges in England. The deliberations are foribus clausis, and the judgment read by the secretary to the parties in court, re-opened for that purpose.

An appeal from the sentence of the court of justice, in all pecuniary matters exceeding the sum of one thousand rix-dollars Cape currency, lies before the honourable the

court of appeals for civil cases, the appellant giving security for the due prosecution thereof.

The number of advocates is not limited; they are Cape-born, the sons of gentlemen from Holland or Germany, settled in the colony, who have been educated in Holland. There are amongst them men of attention and talents, who, taking the lead in every cause, bear off the prize, which is a golden one; for the people are litigious; and law, in no country a cheap commodity, is so very dear at the Cape, that if a man hold a small property, likely to be attacked in a law suit, it might possibly be a matter of prudence at the Cape, as elsewhere, to abandon it to the claimant.

No advocate, by the regulations of the court, can be admitted to plead, or practise, except such as were born, or are settled, in the colony, and who have taken a degree in a Dutch university. It is not to the honour of the learned profession, that the advocates make out charges, instead of receiving fees, and that the charges are said to be exorbitant, and the taxation of them merely nominal.

The crown trials are carried on with open doors, before the same court, which then resolves itself into a criminal court, by his Majesty's fiscal, ratione officii; but as the manner of proceeding in these cases has been published under the order of the chief justice and the court, it will be more satisfactory to those who are observant of criminal proceedings, to see added, (in the Appendix B.) a detail of the forms on trials, affecting the lives of his Majesty's subjects, than to give a short extract of that which is so important. In crown trials, seven members must be present; and where the offence is capital, a majority must agree in the verdict. If the opinions are equal, when more than seven attend, the prisoner is acquitted.

These rules of court will be found more favourable to the accused person, than those of England; but it is impossible not to applaud the humanity of the 65th article, which allows to every prisoner on trial for a crime, the liberty of employing an advocate, to examine and cross-examine witnesses, and to argue for him on all points of law, and generally in his defence.

The penalty of death attaches on conviction, for

Murder,
Rape,
Coining Money, and
High Treason;

and transportation, for theft to a large amount, or crimes of a serious or violent nature, not liable by the Dutch law to death.

For less crimes, banishment, flogging, or scourging.

The court of circuit, established by Lord Caledon, which consists of two justices, who are taken in rotation from the whole number, leaves the Cape annually in the beginning of September, and having gone through the business of the different provinces, or drostdys, returns before Christmas. The court of circuit has not the power of trying a prisoner where life is at stake, without an especial warrant for the purpose, signed by the governor.

The vacation of the court of justice is from the middle of September to the middle of November; but on any unexpected or urgent occasion, a court is formed even during the vacation.

In reviewing the constitution of the court of justice at the Cape of Good Hope, there does not appear to arise any reasonable cause of complaint, nor is there any thing of a nature to prevent the effects of a free and impartial trial, provided the members are men of good sense, of competent learning, and of fair discretion; and provided the members of the court are made independent in their salaries, and appointed "quamdiu se bene gesserint." At present, their office is held during pleasure; and those amongst them who have sufficient interest, hold a second civil situation. To suppose that individuals so circumstanced can give a free judgment, where government is concerned, is to be ignorant of the nature of man.

The chief justice, also, is appointed during pleasure; and although it is not to be believed, that the suspension or removal of such a person would be risked on slight or doubtful grounds, yet if the possibility of removal is made to weigh, even as a feather, on the mind of the chief justice, it ought not to remain. The English judges are made independent of the crown, for their own honour, and for public confidence. How much stronger does such necessity exist, where a reference to the mother-country for redress under grievance, is doubtful and distant!

The complaints of unsuccessful suitors in a court of justice will be loud; but as one party must fail in every cause, the question is, whether any fair ground of censure can be alleged against the general decisions of the court of

justice; and whether, on appeals, they have been more frequently reversed or confirmed. They appear most frequently to have been confirmed; and in the present extraordinary state of the population of the colony, from the arrival of so many British settlers, unacquainted with its habits and customs, the greatest admirer of the trial by jury must admit, that eight men of character and consideration, bound to withdraw in all cases where relatives are interested, selected from the best educated persons of the place, and acquainted with the language and character of both nations, are more likely to give a fair verdict, than twelve persons accidentally taken from a class of society in the Cape, still remaining charged with prejudice, jealousy, and family feelings, mixed up with national party. The trial by jury is the pride of England, not from any magic in the word, but because it at present belongs to England alone, to be able to summon, whenever required for public justice, twelve men with sound heads, honest hearts, and unbiassed minds, and with firmness of nerve to resist intimidation, and despise cajolery. But this can only be found amongst the unconnected individuals of a large and populous country; for the trial by jury does not appear to be adapted to a small society. The misfortune is, that Great Britain has persisted in thinking her constitution the best for every conquered country. The same coat will not fit every man; and wherever the British constitution has been attempted to be introduced by force, the consequence has been, the getting rid of Great Britain, and of her constitution.

It is a grave question to decide, whether the Dutch law should still continue to be in force through the colony; particularly as to the disposition, after death, of the real and personal property of British-born subjects and their descendants: but there cannot be a doubt in any man's mind, now that the colony is British, that the decisions of the court of justice, and the arguments of the advocates, ought to be carried on in the English language at a very early day; and that the advocates and chief justice, on any future admission, should be barristers of an English court.

These regulations, aided by acts of parliament and proclamations, which take place as occasions require, will, by degrees, bring the decisions of the court nearer to English practice; whilst, by the constant intermarriages of the

English with the Cape-born; and by an increased population of the settlers, the Cape will, at no very distant period, have become so completely anglicised, that British habits, laws, and language, will be considered most congenial to the feelings, and best adapted for the interest and happiness of the colony. Until this situation of things arrives, those who have deeply considered the subject, however partial to a gradual adoption of English laws, as occasions may arise, are adverse to a hasty and forcible introduction of the whole body of English jurisprudence.

The salary of the chief justice, at this date, amounts to 9,000 rix-dollars, not 700*l.* sterling money; a poor remuneration for so high and honourable an office. That of the justices, to 4,250 rix-dollars.

To reward them properly for their services, and to make these public officers independent of government, no reasonable man will consider doubling the salary of the chief justice, and of the justices, as more than barely sufficient to enable them to preserve their independency, and to render their acceptance of any colonial situation, not appointed from home, null and illegal.

Courts of Appeal.

There are two courts of appeal from the decisions of the court of justice; the one in criminal cases; the other in civil cases, where the value in dispute is not less than one thousand rix-dollars.

In the criminal court, the governor is aided by an assessor, who is a barrister. The pleadings and documents of the parties which have been brought into court, go through their regular terms; and on the day notified in the Cape Gazette, the court sits, attended by the advocates of the contending parties, who are not permitted, in that stage of the business, to make additional observations, or produce new documents. The sentences of this court are definitive, reserving to the governor the right of pardon, or postponement of a sentence.

In the court of appeal for civil cases, the various pleadings go on in like manner, through their usual periods or terms. On the day appointed for a decision, this court, which consists of the governor alone, attended by the secretary of the court, gives judgment. Whether it be, that

property, which sustains life, is of less value than life itself, or that an appeal lies to the King in council, there is no assessor to the court in civil cases; and the court, that is, the governor, decides according to his own view of the case.

There appear to be some solid objections to the constitution of these two courts of appeal. In the criminal court there is an assessor, who, being a barrister, is presumed to be fully competent to advise the court of appeal, in criminal cases, as to its judgment, according to British law; but as the Dutch law is at present in force through the colony, and as, by that law, every one ought to be acquitted or condemned, it may be thought that, in justice to the party, a Dutch advocate ought to attend as an additional assessor. But what is the court of appeal for criminal cases? It is the governor alone;—the same individual, who, appearing in court as the legislative authority, assumes the executive, when he departs from it. This unconstitutional state of things did not exist till of late. The lieutenant-governor heretofore was a member of the courts of appeal, but there being now no such authority at the Cape, the governor singly constitutes the criminal and civil courts.

In the civil court, where there is no assessor, the decision of law-points, acting on large masses of property, rests on one individual, who is not a lawyer. Solomon says, in the multitude of counsellors there is wisdom; and although the converse of this proposition may not hold in all cases, yet it is desirable, that grave matters should be decided by more heads than one. It may be urged, that there is a final appeal to the King in council. This is a heavy expense, and of tedious issue, often brought on by the very circumstance of there being no assessor. Suitors would frequently rest satisfied under a sentence, when they knew it to have been advisedly given under the direction of counsel.

In this court, composed as it is of one judge, however great his abilities, and that judge usually a military officer, there is not the necessary confidence; and (which is of extreme importance to courts of law) public opinion is not in favour of the courts of appeal, modelled as they now are.

Court of Vice-Admiralty.

THE court of Vice-Admiralty of the Cape of Good Hope consists of a judge, registrar, marshal, king's proctor, and proctors; and is of considerable importance in time of war. In peace it has little business, and that little is invaded; for, in cases of forfeiture, or seizure of ships or merchandize, for breaches of custom or navigation laws, the court of justice claims a concurrent jurisdiction. There is a race, therefore, upon all such occasions, between the king's proctor and the fiscal, for the priority of getting the matter into court. For, as the first blow is said to be half the battle, the court which entertains or issues the first process, exerts the right of judgment in the cause.

There appears to be an unreasonable assumption of legal power in the court of justice; as the establishment of the vice-admiralty court by the English government, subsequent to the capitulation, seems to have superseded the judicial power of the court of justice in all maritime affairs; but power once exercised is given up with reluctance.

Within these few months, application was made to the English government for a decision upon the rights of the discordant courts. The answer corresponded with those of the Pythia of the oracle of Delphos, which, being of a double nature, were under one interpretation received by the supplicant, as conformable to his hopes or wishes.

The vice-admiralty court is independent of the colonial government; and the appeal from its decisions as a prize-court, is to the Lords Commissioners of Appeal; and as an instance-court, to the high court of Admiralty and Delegates.

SECTION III.

His Majesty's Fiscal.

THE Fiscal is an advocate of the court of justice, holding a situation, with respect to government, something similar to that of attorney-general in England. In that capacity he is, ratione officii, public accuser and prosecutor; and all suits in the court of justice, on the part of government, are conducted by him. He prosecutes, also, in all matters of revenue and breach of custom-duties, or

smuggling, and receives for his share, one-third of the proceeds of the fines or forfeitures. The acuteness of a lawyer, whetted by a prospect of gain, and aided by the greedy watchfulness of an officer of customs, appear to be dreadful odds against a defendant.

The fiscal is not allowed to plead the cause of any individual in the civil court. He has occasionally so done for public bodies, such as the India Company; but even then, he must have express permission of the court, for the occasion.

There is one privilege assumed by the fiscal, so odious as to attract the notice and censure of all; it is strange that a sense of proper feeling has not taught him to abstain from such a pretension, or the court to disallow it. In all trials, even in those in which he is personally engaged, he assumes a seat on the bench, next to the chief justice; and it arouses indignation to see the public prosecutor in a situation where he can privately converse with, or make occasional remarks to, the first magistrate, trying a prisoner perhaps upon a capital offence. What acute feelings must this create in the mind of the unhappy individual, who, whilst trembling for his life, perceives the adversary at the ear of the judge!

It is not said, or intended to be intimated, that any undue advantage is taken; but the public mind is disgusted with the appearance of an unfair and cruel proceeding. Let the vanity of office be gratified by a distinguished situation, but let not the prosecutor be lodged at the elbow of the judge. The attorney-general of England has a silk gown, and an appropriate place, but not upon "the judgment-seat."

A second impropriety, to call it by no harsher name, is observed in the fiscal addressing the full court, or the commission, whilst sitting on his chair. In England, the judge alone speaks in that posture; and such presumption in an advocate, for such is the fiscal, appears as disgusting as it is unbecoming towards the court and the bar.

The entire direction and management of the police of Cape Town rests on his Majesty's fiscal, aided by two deputies. He examines into all offences against the peace of the town; and as the slave population is under his immediate charge, he punishes irregularities, or breaches of the peace, by instant commitment to prison, and by flogging,

in proportion to the offence; but he must state the circumstances to the court of justice, on its next meeting. Such is the awe of a fiscal in the breast of slaves, that, were the governor to pass by during a street quarrel, the disputants would persevere; but, on a mere report of the fiscal's being near at hand, all is instantly hushed to peace and order. His power over the white population is limited; for, if he feels it to be necessary to place a free person in custody, he is bound to report the circumstance to the court of justice within twenty-four hours.

When matters, having a tendency to disturb the quiet of the community, come to the knowledge of the fiscal, he has, or assumes, the right of sending for the parties, although free persons, to his office, to inquire, and to act accordingly. In grave accusations, he prosecutes before the assembled court, and, having stated his case fully, claims (for that is the *professional* expression) the punishment of the offender, in the manner prescribed for that special offence, whether by British order of council or act of parliament,—by the Dutch Indian law, or by the Corpus Juris Civilis. The prisoner then commences and concludes his defence, in person or by counsel, and the court affirms or rejects the claim of the fiscal, in whole, or in part, according to its judgment.

His Majesty's fiscal, as first law officer of the crown, is required to give his legal opinion, in cases which appear to the governor to be of a doubtful nature. His other duties are various and important. He is powerful to punish the slave, and to accuse the free man. He may bring forward charges tyrannically, or withhold them corruptly. He may tease one part of the society by little vexatious police regulations, and indulge another part in less venial acts. He may stare at the faults of one, and blink at the crimes of another.

It is, however, greatly to the honour of those who have exercised the office of fiscal, that no instance is on record, in which any one has been convicted of undue partiality, or of abuse of power; but it would be withholding the truth not to add, that the judgment is not as yet accurate enough in this colony, to distinguish between a man and his office; and that a fiscal is, "ratione officii," detested by the people. Such indeed, even in many persons of a better station, is the disinclination towards an individual who passes life in seeking out and attacking the frailties,

as well as the crimes of mankind, that though a fiscal may be acknowledged to do no more than the duty for which he is paid, and to do it mildly; yet the kind fellowship of society, and the warm affections of the heart, are rarely poured forth towards him, in the same degree as they are towards other individuals.

The senior deputy fiscal acts in the daily office, which is the Bow-street office of the Cape, attended by all its natural accompaniment of constable and culprits.

The police-officers (properly called, Justitie Dienaren and Kaffers) heretofore were armed with swords; but they were found to be "swords in the hands of madmen;" and, in consequence of some outrageous acts, they are now permitted only to carry staves. These men are the refuse of the Cape population, drunken, worthless, and inhuman, frequently selected from the convicts banished to Robben Island; and the best title to be a subordinate in the department of justice, is to be a notorious villain. Notwithstanding all this, the police of the town is good. After gun-fire, (9 o'clock p. m.) a better conducted class of watchmen go on duty, and any slave showing himself without a lantern, or special pass, unless attendant on his master or mistress, would be instantly sent to prison till the morning. During the whole night, and indeed at all times, the most defenceless person, male or female, may walk unattended through the Cape Town, without danger of insult or injury.

The number of daily petty disputes and quarrels between slaves, and also between inhabitants of the lower sort, are without number. To these the deputy fiscal gives his patient attention. He tries to accommodate and settle the disputes, and to bring the parties to reason, if he can; —where he cannot, he uses his authority, and coerces when he cannot persuade. It is his hardest task here, as elsewhere, to pacify and reconcile discordant females, whose eloquence and clamour equal that of the most able professors of Billinsgate.

All other matters of a slight nature, which do not require the hand of a master, are also referred to the deputy fiscal.

The junior deputy fiscal pays his chief attention to the provincial business, much increased by the late arrival of disappointed settlers. He is also prepared to take any

other part of the duty, which the engagements of the fiscal may compel that officer to confide to his management; and also to give his assistance for the dispatch of that heavy weight of police duty, which the diligence of office can keep under with difficulty.

SECTION IV.

Tronk, or Cape-Prison.

THIS prison, which is for both town and district, and known at the Cape by the name of the Tronk, a Batavian appellation, has been lately enlarged, and made more commodious. Unfortunately, as society increases, crime and misfortunes keep pace. Criminals and debtors are both immured within these walls, but in distinct parts of the building.

The Tronk is under the more immediate management of the deputy fiscal, but subject to the superintendance of the fiscal. The apartments are clean, and well adapted to secure prisoners, without placing them under unnecessary restraint. There is abundance of water within reach; and cleanliness and good order appear to prevail. The situation, having the front towards the Grand Parade, and the back towards Table Bay, is salubrious; and there is a medical attendant on daily duty.

The criminal prisoners are separated from each other, till after examination; and male and female prisoners are in different wards. The trial of a prisoner is almost immediate, as the court of justice is prompt in taking cognizance of crimes brought forward by the fiscal.

The allowance to criminal prisoners is one pound of meat, one pound of bread, half a pound of rice, and one penny for vegetables in soup. Prisoners are allowed to work, if so disposed, and may see their friends at seasonable hours.

The allowance to debtors is, one pound of bread, half a pound of meat, half a pound of rice, and one penny for vegetables. The expense of maintaining a debtor is borne by the creditor who imprisons him.

No man can be kept in jail for debt after the age of seventy; and if nature has forborne to claim her payment before that time, the laws of the colony compel a creditor

to suffer age to linger free from imprisonment, and with such peace as poverty can bestow.

There is a chapel, but no religious attendant of any persuasion, attached to the prison establishment. Zealous missionaries have occasionally visited individuals, and the Malay priest attends those of his persuasion: but so various are the sects of this motley colony, that it would be impossible to meet the spiritual wants of all, by the appointment of one chaplain; and having provided a chapel, it may be most judicious to leave it open to the devotion of every religious persuasion. It is much to be wished, but it cannot be expected, that it may never be found necessary to appoint a regular protestant divine to this service; though, were any unhappy man now to require spiritual comfort, the colonial chaplain, no doubt, would readily attend.

The only arrangement which appears improper is, that the day of the monthly visit of the commissioners of the court of justice, accompanied by the fiscal, is previously known. The commission ought to make its visit on an unfixed day, when no expectation to the jailor is held out; and the attendance of the fiscal is highly improper. The individual, who, in his public character, is powerful enough to commit to prison, and order the infliction of punishment on slaves, ought not to be allowed to be present, and to overawe, when members of the court of justice inquire into the abuses of power, possibly committed by himself.

It is not meant to be inferred, that abuse does exist; on the contrary, every thing appears praiseworthy.

The total number of criminal prisoners committed to the Tronk in 1820, amounted to 113; viz. 102 males, and eleven females; in a town and district comprising a population of 26,000 people, half of which are slaves and Hottentots, besides the army, navy, merchant seamen, and strangers. There were six persons sentenced to transportation, four of whom were for theft, one for an assault and battery, and one for fraud; and nine condemned to death. In 1821, the number committed was ninety-one, (eighty-three males, and eight females,) of whom six were sentenced to transportation for theft, and eight condemned to death. The total capital condemnations of 1820 and 1821, all of which were for murder, amounted to seventeen; viz. nine Hottentots, one Boschman, one prize negro, one European, five slaves; three of which were remitted. Of this number, the

European suffered for riot and murder in Robben Island, (the receptacle for convicts,) in an attempt to escape.* In 1820, there were nine debtors confined for a short term; in 1821, there were eleven. On the 4th of March, 1822, one debtor only remained. In South Africa, the confinement of a debtor has not as yet been considered as the most prompt way of enabling him to discharge the demands of a creditor.

There is a chief jailor, three inferior ones, a bookkeeper, and a swarm of dienars, or constables; all of whom are appointed, paid, and removable by the colonial government.

SECTION V.

Landdrost and Heemraden of the Cape District.

The landdrost, who is the chief officer of the district, or drostdy, holds, together with six heemraden, as assessors, a court for petty cases, both criminal and civil; and also a matrimonial court.

The civil court and the matrimonial court meet every fourteen days, on Saturday. The criminal court, as frequently as business requires it so to do.

In the criminal court for petty offences, the landdrost must always preside; and three members constitute a court for the dispatch of business. They punish by flogging, imprisonment, solitary confinement, hard labour, fine, banishment, and transportation. An appeal from their sentence lies to the court of justice, and finally to the governor, in his court of appeal. Five members form a civil court, of which the landdrost is not necessarily one. They decide suits for sums not exceeding three hundred rix-dollars, Cape currency. From this court there is an appeal to the full court, and thence to the court of appeal. In both civil and criminal courts, the landdrost has a casting voice.

The landdrost has great weight and power in his province, or drostdy. He is chief magistrate, to whom every complaint and grievance is brought, and before whom disputes about land must be adjusted. He has cognizance of all cases of roads, ways and water-courses, in the first instance,

* The law sentences men to be hanged, and women to be strangled.

and allotments of lands to be granted by government are referred to him and the heemraden, assisted by the veldt-cornet to show the boundaries, and by the government surveyor. The landdrost and heemraden have other duties to perform in their drostdys, not very dissimilar, in many respects, from those of the lord lieutenant, and justices of peace of different counties in England.

The veldtcornets are appointed by the landdrost, and usually reside in parts distant from the drostdy house. One of their duties is to attend to the quarrels between masters, servants and slaves, and to accommodate them, if possible. They also punish for small offences; but in serious or difficult cases they refer to the landdrost and heemraden, as their power does not go beyond that of flogging slaves. These officers have no salary, but are exempt from taxes and personal service in the commando, &c. They are entitled to a loan place, free from quit rent; and if they have no loan place, to twenty-five rix-dollars per annum from government.

The landdrost is selected by the governor, and removeable at pleasure. The board of heemraden makes an election every year of two new members in the room of the two senior members, who retire. Four persons are primarily elected by the majority; out of whom government selects two. There is no special salary for this duty paid to the board, but the landdrost and heemraden are entitled to certain fees, when they travel to inspect lands in dispute, or those granted to individuals by government.

The court of landdrost and heemraden appears, on the whole, well calculated for its different purposes, and is in repute with both English and Dutch.

The manner of electing the heemraden is not quite as independent as might be wished, yet they generally are selected from the most respectable burghers, who have property and character.

It is true that an Englishman has been rarely called to the office of heemrad, except in the new drostdy in Albany, where the settlers are located; but, as in the old drostdys the greater part of the duties of the court relate to lands and other matters more in cognizance of the Boers, and are regulated by Dutch laws, there does not appear to be any necessity for alteration under the present system of the colony.

SECTION VI.

Matrimonial Court.

The landdrost and heemraden form also a matrimonial court, which sits every other Saturday. Before it all persons must appear previous to the solemnization of marriage, nor can banns be published in church, or a special license be granted, without producing the certificate of this court. Here are registered all marriages contracted at the Cape; and to this office, not to the church, is application made for the legal copy of the registry of a marriage.

Any lady, passenger on board of ship, who may have been persuaded by a fond admirer to give her consent to be married on arriving at the first land, is hurried on shore by her impatient lover, and attending at the matrimonial court, is surprised to be unable to reward with her hand his ardour, until she has satisfactorily answered certain questions proposed by the demure president, which are ordered in all cases to be put to both parties.

Where were you born? Where do you reside? How old are you? Are you a Christian, and not a Heathen or slave? Are you engaged to any other person by promise of marriage, or otherwise? Are you perfectly free to marry? Have you been married before? Have you any children living? Are you related to each other in the degrees of affinity forbidden by law?

If, after appearing to listen with temper to these interrogatories, and having given suitable answers, the impatience or the conveniency of the parties cannot endure the lapse of three Sundays for the publication of banns, recourse is had to the Secretary's office, situate in the same public building, for a special license, with which they are indulged at the low price of two hundred rix-dollars, and, as the church is close at hand, the parties may be married immediately, provided due notice to attend has been given to the clergyman.

Thus, at the Cape, for a sum of between two and three hundred rix-dollars, a man may, in a few hours, be made happy for life.

It was usual, a few years since, for an officer of the church to call in form on the parties, to congratulate them

on their marriage, wishing them health and happiness, for doing which, the philanthropist expected a douceur of the small sum of five rix-dollars.

The "well wisher" having departed this life, no one of equally kind and affectionate disposition has elected himself into office, and the benevolent custom is in abeyance.

It is believed that none feel the absurdity of this string of questions to the parties more than the court, but it is the law of marriage as established at present. It would be judicious in government to allow the court to renounce a part of this farce, at least so far as the English are concerned, without doing away the necessity of a registry in the court, although marriage be now solemnized by a clergyman in the church.

From the year 1803, until the 26th April, 1806, no other form was required to legalize marriage, than the ceremonies of the matrimonial court, it being till then considered merely as a civil contract by the Batavian Republic, which regulated the proceedings of the established Calvinistic Church at the Cape. The spirit of oppression, however, acted with its usual acrimony towards dissenters; for the Lutherans, who have also their church at the Cape, were compelled to be married a second time before the court of justice, after having gone through the first ceremony in the matrimonial court.

There exists no greater indulgence from one sect of protestant dissenters towards another, than towards the Romish Church. Such are the effects of religious controversy.

On the 26th of April, 1806, Sir David Baird sent both parties, Calvinists and Lutherans, to be married at church, or the marriage was void; and thus settled the dispute by a pious proclamation. *

* PROCLAMATION

By his Excellency Major General Sir David Baird, Knight of the most Noble Order of the Crescent, Colonel of the 54th Regiment of Infantry, and commanding in chief his Britannic Majesty's troops in the settlement of the Cape of Good Hope:

Whereas, in the regulations issued by the late Batavian Government, dated September 20th, 1804, it is ordered and decreed, that in the country districts of this settlement marriages may be solemnized by the several Landdrosts and Heemraden, without the ceremony being performed in a church, or at the usual place of divine worship: and whereas, the above regulations were ordered (by a resolution of the governor and council, dated January 3, 1805) to be adopted also in Cape Town, and in consequence of that resolution, it appearing that mar-

The reader will have seen with how little difficulty an individual may contract matrimony at the Cape; it may, be a satisfaction to him to learn, that he may get rid of the company and expense of a wife almost as easily. Let him suppose the same Cape married couple before mentioned, to have sailed for India, or elsewhere, and after living together during this voyage, or even sixteen years after,* to discover

riages have been of late solemnized by the Matrimonial Court (composed entirely of laity) and which marriages are esteemed valid by the present law on that subject, without the ceremony being performed by an ordained clergyman, or the assistance of the church being in any manner required. Now, having taken the above regulations and this new custom into my most serious consideration, and reflecting, that in all civilized countries where the Christian religion is professed and respected, the marriage ceremony is justly reckoned a holy institution, connected with the sacred principles of religion, and not (as these regulations would infer) a mere civil contract; I therefore, by virtue of the power and authority vested in me by his Britannic Majesty, do strictly prohibit the Court for matrimonial and civil affairs, as also the Landdrosts and Heemraden of the several country districts, from performing the marriage ceremony in future; and do hereby order and direct that all marriages in this settlement, as was the case before the regulations before mentioned were issued, are to be performed in the former manner by an ordained clergyman, or minister of the Gospel belonging to the Settlement.

As, however, in consequence of the great distance that some of the inhabitants of the Settlement dwell from the Capital, they must suffer great inconvenience on being obliged to make so long a journey, if they are allowed only to be married in Cape Town, as was formerly the case, I do therefore authorize and allow the clergymen of the several country districts to perform the marriage ceremony in their respective cures or parishes, and the Court of Heemraden to register these marriages in the same manner as is done by the Court for matrimonial affairs in Cape Town; and whenever it may happen that there is no clergyman in any districts or parish, then the parties wishing to be married must apply to the clergyman of the neighbouring parish, who is authorized to marry them, upon their producing a certificate from their landdrost and Heemraden, that there is no legal objection, and observing all other usual forms and ceremonies.

Given under my hand and seal this 26th day of April, 1806.

PUBLICATION.

His Honour the Chief Justice, Sir J. A. Truter, Knight, LL.D. and the Worshipful Members of the Court of Justice, of the Settlement of the Cape of Good Hope, and the Dependencies thereof, do hereby make known:

That whereas Adam K. and Betje V. have addressed a memorial to our Court, stating:—That Memorialists have been married for now sixteen years, but, to their sorrow, have experienced their tempers and dispositions to be so opposite, as to embitter their lives, so that a longer co-

that their tempers and inclinations were totally different, that the wife hated what the husband admired, and the husband abhorred what the wife loved; in such case, on their return to the Cape, they have only to address the court of justice, and to state that "a longer cohabitation must be attended with most serious consequences,"—a threat well understood; and a legal separation will generally ensue.

A marriage duly solemnized according to the laws of any foreign country wherein the parties happen to reside, has been generally confirmed by the courts of law at home; but whether a divorce so decreed would separate the parties when they return to England, in the case of their having been there married; or bastardize the future issue of the wife born after separation by Dutch law, in England, where access is possible; must be left to lawyers to decide. Here, however, it is the law of the place, and in full force and effect.

Another case likely to happen presents itself. A settle-

habitation must be attended with the most serious consequences; therefore, requesting to be separated from bed, board, and community of property.

So it is, that we, having read the report of the Sitting Commissioner, to whom said memorial was referred for the purpose of amicable arrangement, and, if necessary, for enquiry, and having taken into consideration the dangerous consequences which might result from a longer cohabitation of memorialists, as well as every thing which deserved attention, or could move the Court, administering justice in the name and on behalf of his Britannic Majesty, do separate said Adam Kraus and Betje Valentyn, and they are hereby separated accordingly from bed, board, and community of property, to all intents and purposes, the joint estate to be administered and liquidated in the usual manner; while the arrangement made between the parties, as set forth in their said memorial, respecting their four children begotten during their marriage, is hereby approved of and confirmed.

And as by the separation of said married persons, each of them becomes severally responsible for the debts he or she may contract, this public notice is therefore given, that no person may in future trade or negociate with said man or woman, on account of the joint estate, as no such transactions will be cognizable by law.

And that no person may plead ignorance hereof, this shall be published and affixed as usual.

Thus done and decreed in the Court of Justice, at the Cape of Good Hope, on the 14th December, 1820, and published and affixed on the 28th following.

J. A. TRUTER, Chief Justice.
By Order of the Court,
D. F. BERRANGE, Sec.

ment before marriage, here entitled an ante-nuptial contract, rarely takes place. It is not the custom and habit of the colony. The law assigns to a survivor the half of the property of the deceased husband or wife, and shares to the children. If a man married at the Cape, remits his fortune to England, and vesting it in land, and retiring with his family thither, dies intestate, the English law would, in such case, give the estate to the eldest son, and both widow and younger children would be deprived of the legitimate portion assured to them by marriage at the Cape, according to Dutch law and ceremony. The same circumstance would take place where parties remain at the Cape, by vesting their property in England, without making a previous agreement. It therefore behoves the wife to look to these circumstances of her situation, before she consents to leave the Cape, or suffers the joint property to be removed to England.

SECTION VI.

Sequestrator's Office.

The insolvent chamber, in January, 1819, merged into the office of the sequestrator, who, in cases of bankruptcy, unites the two characters of commissioner and assignee. Any individual, whether trading or not, may go to the sequestrator, and acknowledging his insolvency, give over to his management, the whole of his estate for the benefit of his creditors. But the doing so is too galling to be often practised, and in general it is forced by process of law. After sentence is given against a defendant in the court of justice, and it has gone through the usual but ineffectual notice of payment by the plaintiff's advocate, the sentence is given over to the sequestrator for execution, who, applying to the debtor, demands payment, which may be delayed fourteen days, on giving security. If at the end of that period payment is not made, or the debt settled to the satisfaction of the creditor, the sequestrator requires possession of as many goods as will produce, by public sale, an amount equal to the debt and expenses. These the sequestrator advertises and publicly sells, paying over the amount to the creditor, after deducting his charges and expenses, together with 5 per cent. on the amount, which, as well as all other

fees, he pays over to government. If, however, the individual has other debts which he cannot liquidate, the whole property is given up to the sequestrator, who sells it at public sale, and makes out a list of the demands against the estate, which he produces in due course to the court of justice. Notice is given in the public gazette to the creditors, and if there be any objection on their part to the sequestrator's statement, it is decided by the court; if none, the distribution goes on. After a certain period, if all has been fair on the part of the insolvent, the sequestrator certifies in the Cape gazette, that the insolvent "has acted in every respect as an honest and honourable man should do," * and that he is liberated from all claims of his colonial creditors.

* PUBLICATION.

His Honour the Chief Justice, Sir J. A. Truter, Knight, LL.D. and the Worshipful Members of the Court of Justice, of the Settlement of the Cape of Good Hope, and the Dependencies thereof, do hereby make known:

That whereas M. A. S. has addressed a memorial to our court, stating, that notwithstanding his best and most industrious endeavours to improve his pecuniary circumstances, still however, through a series of unfortunate circumstances, which he could not possibly foresee, his estate has gradually become so impoverished, that he has been under the necessity of delivering over the same as insolvent to the sequestrator, who having accordingly administered and liquidated his said estate, a dividend was made to the creditors, without any of them having opposed or appealed from such distribution; that the majority of his creditors, both in number and in the amount of the respective claims, having afterwards consented his rehabilitation, he, therefore, exhibiting such declaration, as is prescribed by the sequestrator's instructions, requested to be rehabilitated from his state of insolvency; on which subject having heard the creditors who had not consented, and there appearing, in consequence, terms for the granting of his request:

So it is, that we, having heard the report of the sitting commissioner, who was charged with the investigation of this case, rehabilitating said M. A. S., do hereby declare, that the said memorialist, both previous and subsequent to his insolvency, has acted, in every respect, as an honest and honourable man should do; and, therefore, rendered himself worthy of the privileges granted to such debtors, by the said instructions for the sequestrator, and consisting herein, viz.: That he is discharged and liberated from all the claims of his creditors, excepting those which have been assigned them by the sentence of preference and concurrence, so that he may again trade and negociate as before, and which privileges are specially granted to him by this public act of rehabilitation; under this condition, however, that the rights of creditors abroad shall not be prejudiced hereby.

And that no person may plead ignorance hereof, this shall be published and affixed as usual.

Thus done and granted in the court of justice, at the Cape of Good

It is also part of the duty of the sequestrator, under the immediate direction of the collector and comptroller of customs, to sell by public sale, all forfeitures or seizures made by custom-house officers or others, and after deducting the expenses, to pay the amount to his Majesty's fiscal, who delivers one-third to government, one-third to the seizing officer or the informer, and retains the remaining third, according to the Cape law, for his own benefit.

The checks imposed upon a sequestrator, in an office which might bear hard upon individuals, if wantonly or harshly executed, and also the regulations for his general conduct in performance of his duty, are comprised in very minute instructions from government; and as these are in fact the bankrupt laws of the colony, it may be desirable to commercial men, to be made acquainted with those laws, by which all are bound who live at the Cape, but which bear a more particular application to themselves.—Vide Appendix C.

The money, received by the sequestrator, both as the executive officer in forcing payment of debts to individuals, as well as in bankrupt affairs, is deposited in the colonial government bank without interest, from which it can be drawn when required, only by the cashier of the office, who is responsible for its due application. The sequestrator, on every Thursday, which is the court day, is bound to produce his books and weekly accounts to the court of justice for their inspection, and if the court did really and effectively controul and check his accounts and conduct, weekly, it would be complete and satisfactory; but it is presumed that orders from government regulate many of the proceedings of this office, in addition to the instructions under which it acts, which also originated in the same quarter.

The sequestrator, cashier, and clerks are appointed and paid by the colonial government, and are removable at pleasure. The fees and profits which are carried to the account of the sequestrator in the government bank, are quarterly laid before the colonial auditor of accounts, and the payments examined and compared in that office.

Hope, on the 26th April, 1821, and published and affixed on the 3d of May following.

J. A. TRUTER, Chief Justice.
By Order of the Court,
J. T. JURGENS, 2d Head Clerk.

CHAPTER III.

BANKS—WINE TASTER—WINE FARMER, AND VENDUE OFFICE.

SECTION I.

Lombard or Loan Bank, and Discount Bank.

THE part taken by the Dutch, in the war between England and America, in the year 1780, occasioned great distress to their colony at the Cape of Good Hope. The supplies of every sort, heretofore sent with punctuality from Holland, for the support of the civil and military establishment, were delayed, and finally sent in so scanty a quantity as to be unequal to the existing demand.

In this crisis, Governor Van Plettenberg found himself reduced to the absolute necessity of creating a paper-currency, for the relief of the station, by the payment of the public service.

Between 1782 and 1784, when he resigned the government, paper rix-dollars were thrown into circulation to the amount of R. 925,219 : 46. This transaction was exceedingly creditable to Governor Van Plattenberg, as, instead of tendering a delusive mortgage of lands or houses, he offered no security but the good faith of the Dutch government; and a solemn promise, that this creation of paper-money should be redeemed whenever peace would allow the accustomed supplies to be sent from Holland.

In conformity with this engagement, the annihilation of rix-dollars 825,904 : 34 took place, between 1787 and 1789, by a payment to that amount in specie and bills on Holland; leaving only the sum of rix-dollars 99,315 : 12 afloat and in circulation.

Unfortunately for the public, this redemption of the pledge of Governor Van Plettenberg gave extreme facility

to a future governor, to pursue the plan of creating rix-dollars on any emergency.

In the year 1793, the colony laboured under very pressing inconveniency from the want of circulating medium, not supposed to exceed, at that period, the sum of 200,000 rix-dollars; and the commissaries general, Nederberg and Trykennices, formed the institution of a Lombard or Loan Bank, with a view to the relief of the public, and for the purpose of checking those usurious transactions which naturally accompany a currency insufficient for the commercial and home transactions of any society.

A proclamation was issued for the establishment of the Loan Bank; and one million of rix-dollars was declared to be a circulation adequate to the wants of the colony. Rix-dollars to the amount of 680,000 were advanced by various instalments, to form the capital of the loan bank, under the direction of a president, two commissioners, a book-keeper, and cashier. The commissioners were authorised to lend money at 5 per cent. on mortgage of houses and lands, gold, silver, jewels, and merchandize or other articles that can "lie still," (that is the expression) for 18 months, but not longer.

On goods of a less perishable nature, a loan might be advanced for such time, not exceeding nine months, as appeared reasonable to the commissioners.

In September, 1795, the circulation of Cape paper rix-dollars had risen, by various creations at different periods, to the sum of 611,276 ! 42, exclusive of the capital of the Lombard bank; nor was there a shadow of real property, or even a government engagement on which it rested. In a word, the rix-dollar was, and, it is to be feared, still remains, merely a counter passing current, by a sort of common usage, in all the various purchases and sales within the colony.

At the close of 1795, the Cape was placed under British government; and Governor Sleuskens, in order to prevent the distress of the inhabitants, by the expected conflagration of these shadows, in the shape of rix-dollars, gained from the humanity of General Craig a stipulation, that the government farms and public buildings should be a security to the holders of the 611,276 rix-dollars, leaving the loans from the Lombard bank protected by its own mortgages. This security remained, and was, on the evacuation given

over to the Dutch government, in a state of improvement. The rix-dollar appeared to possess on that day a real eventual value, owing to the casual circumstance of the surrender of the Cape to an enemy.

Shortly after the capitulation, it became requisite for General Craig to draw bills on England for the public expenses; and, although he offered the bills at par, an evident proof of the credit in which the rix-dollar was then held, he was unable to procure the sum required, and absolutely forced by that refusal to create 250,000 rix-dollars, in paper-currency. A dearth soon after took place, and 80,000 paper rix-dollars were created for the purchase of rice. These two sums, making together 330,000 rix-dollars, were accounted for, and honourably discharged, by the British governor, on the evacuation of the Cape; but, in breach of faith, the Batavian government received the sum without cancelling paper rix-dollars to a like amount.

On a representation from the loan bank, an augmentation of 165,000 rix-dollars soon after took place, which was delivered over to the bank as an increase of capital. To this there does not appear much objection, as it is presumed the mortgages on which it was lent were of an equal value.

On the evacuation in 1803 by the British, the whole amount of rix-dollars in circulation was about two millions.

From the statement here given, it would appear that, whatever the sum might be, which was bottomed at least on nominal security, every hope and expectation of its so continuing, was dissipated by the first proclamation of 1804, on the subject of rix-dollars, whereby a new coinage of rix-dollars was ordered, and the old ones recalled. By this operation, the whole sum of current rix-dollars created with or without security, was thrown into one common undistinguished mass, and all question of priority or preference set at rest.

A sum of 32,000 rix-dollars was also gained by the Dutch government, in the non-appearance of old paper on the recoinage.

Between this period and the surrender to the British in 1806, there was an additional coinage of 300,000 rix-dollars, paper-currency; and by way of coup de grace, to all possible expectation of a still existing security for the rix-dollar in the government farms, a part of them was sold

for the sum of 80,000 rix-dollars, none of which were employed in the annihilation of the rix-dollars for which originally they were pledged; nor, in fact, was a single rix-dollar destroyed, after 1789, by the Batavian government.

In this situation of the public credit and of the colonial currency in 1806, the British became masters of the Cape; and although the honour of the nation was pledged, and afforded full confidence to the inviolability of the capitulation, yet every thing remained in a lifeless and doubtful state. The currency was withheld by the timorous in the apprehension of loss, and by the usurious, in the hope and in the practice of high interest, and great difficulties occurred.

In order to relieve the public wants, Lord Caledon, in that unceasing endeavour to benefit the colony, which marked his conduct throughout, established a Bank of Discount in 1808, and advanced, as a capital, the sum of one hundred thousand rix-dollars from the treasury. Six per cent. was the legal rate of interest at that time, but the bank was allowed to receive deposits, and to pay an interest of 5 per cent. on all sums left there for a year or more. The public offices were instructed to carry their daily receipts to the bank, making a considerable addition to the floating balances. With this loan without interest, of one hundred thousand rix-dollars, with deposits, it is said, to the amount of nearly one million rix-dollars, with the receipts of the public departments, and with the accounts of individuals, the bank seemed to consider that every required discount might be afforded; and the public might be fully accommodated without danger to the establishment.

In June, 1810, Lord Caledon authorized the creation of one million of rix-dollars; (a measure, at that period, considered by many to be of a doubtful nature, leading to the depreciation of the colonial currency;) half of which were to be appropriated to the service of the loan bank, and the remaining 500,000, for the purchase and repair of the public buildings; which latter sum was not issued until 1814 by Lord Howden; and wholly expended before the close of his government.

Some correspondence took place in the year 1812, between Lord Howden, the governor, and the president and

directors of the bank, on the subject of the deposits at 5 per cent., and on the general danger to the bank of discount; but he yielded to the reasons of the bank directors, and the bank of discount persisted in its usual operations during the continuance of his power.

In June, 1814, on the arrival of Lord Charles Somerset as governor, another system succeeded to the former one. Notice was given that deposits on interest could no more be accepted, and that those in hand would be discharged at the end of the year. Such a decision withdrew the capital on deposit, and must have diminished the bank discounts. Reasons of an imperious nature no doubt occasioned this departure from former practice; and his lordship prudently considered the profit of one per cent. to the bank on its discounts, many of which were for private accommodation, and not for purposes of trade or agriculture, as being too inconsiderable an advantage for the risk which might at any moment arise; as upon any serious alarm, the whole amount of deposits would be claimed and withdrawn, on forfeiture of the interest; and a run upon a bank of this extent, with only one hundred thousand rix-dollars capital, must have brought it to the ground.

Since that period bank discounts are procured with more difficulty, and mercantile speculation has abated. The public distress, aggravated by dearth, "has increased, is increasing, and ought to be diminished;" and unless things find their level at an early period, imminent distress appears to hang over the greater part of the colony of the Cape of Good Hope.

Having traced the origin, progress and functions of the loan and discount banks, the consideration of the state of the currency naturally presents itself. It consists of about three millions of paper rix-dollars, originally issued at four shillings sterling, a part of which was secured on the government farms and buildings; but as the paper rix-dollars issued under security were never particularized by special numbers or marks, and as all were called in and re-coined in 1804, there no longer appears any distinct appropriation.

It would also be difficult to realize the value of public buildings, government houses, and farms, if such security did really exist; for in a case of general ruin, and of the annihilation of the rix-dollar, where would the purchasers be found, if the government would allow such a sale? And in

case of capture, where is the conqueror who would permit it? It would probably be his interest, that the paper rix-dollars should be buried in the tomb of assignats and mandats.

The mortgages lodged in the loan bank for sums advanced by that bank, are the only available securities, which, being sold and realized, might produce a dividend for the whole mass. Such a condition of currency is deplorable; but combined as it is with the pressing circumstances of the day, it becomes out of all hope that it can recover from depreciation, except by the concurrence of very favourable events. The amount of rix-dollars which had been issued by the colonial government, is still due from that government to the public. It received value for the issue, and is bound to return it. The guarantee of the British government, for that proportion which was in circulation at the capture, is not to be considered a guarantee in words, but as a guarantee of effect. Common honesty requires, that this should be held sacred. It is mere justice to the public, and to its own character, that the English government should keep its faith, and redeem its pledge. The state of credit at the Cape is so desperate, that confidence in individuals is gone. There is a host of borrowers, and no lenders; and those who are unable to get that accommodation which their affairs require, impute it to an insufficiency in the circulation, of which there is an over abundance; and not to the depressed state of their own credit, and that of others, added to the natural effects of excessive over-trading, which have acted upon England and America in the same manner. Adam Smith considers one-fifth, one-tenth, and even one-twentieth of circulating medium to be sufficient, under different circumstances, to circulate the whole value of the annual produce of a country. Let this rule be applied to the Cape, where there is now a currency of rather more than three millions, and where the whole annual sales do not, it is said, amount to nine millions of rix-dollars. Three millions would therefore be more than sufficient, according to the highest calculation of Adam Smith, provided extraordinary causes did not interfere with the freedom of circulation.

The enormous height of exchange on England (the consideration of which ranges itself under the head of commerce) having reduced the value of the currency in ex-

change on England to 1s. 6*d.* sterling per rix-dollar, causes the merchant who wants to remit, to possess himself for the time of a large quantity of rix-dollars, for the purchase of bills on England, upon the day of tender. This may absorb, for a short time, a portion of the currency, but this occasional circumstance is insufficient singly to give rise to constant distress, as the rix-dollars so paid for bills go into immediate circulation. Any addition to the number and amount of the present rix-dollars recommended by some projectors, unless grounded on solid security, would be a fraud on the public, increasing the distress; and, if grounded on security, it would instantly cause a further depreciation on those which are not so, and make the rix-dollars of different value.

An increase of rix-dollars must lessen even their present estimation. Paper-currency, like every other article, becomes cheaper by over-abundance. The creation of more rix-dollars must increase the rate of exchange against the colony, as it would give the immediate means to more purchasers, without adding to the number of bills on sale. When the bank note of England over abounds, its value decreases in exchange. When exchequer bills are largely issued, the premium lessens, and often becomes discount.

One main reason for the apparent scarcity of rix-dollars is, that a lender cannot depend upon the punctuality of a borrower, whilst, by locking them in his chest, he is sure to find them on the day of difficulty. Another cause of scarce circulation may be thought to arise from there being no colonial government paper bearing interest. There is a class of individuals in possession of sums of rix-dollars from 100 to 1000, who are fearful of entrusting their little all to private debtors, where neither principal nor interest might be received without difficulty, and therefore keep it at home uncirculated and unemployed, and making no return to the owner. The whole of this very far from inconsiderable portion of capital might be brought into action, were there any government security in the nature of exchequer bills, current for all government duties and payments, except for bills on England. These government debentures, bearing an interest of four per cent. if issued for small sums of 100 to 1000 rix-dollars, with the principal bottomed on some tax or part of the colonial revenue, would act also as a currency, and their produce in rix-dollars might gradually be

destroyed, to the great relief of the depreciated circulating medium.* A freedom from colonial debt is, however, so positive a good, and so peculiar an exception to the general rule of states, that it must be given up unwillingly, even for the more active energy of an improved currency.

The creation of an additional amount of rix-dollars, to which objections have been made in a former page, has been considered, most erroneously, by some persons as the means, if placed as capital in the discount bank, of relieving the public distress; to which is added the return of the bank to the system of receiving deposits on interest. With this is combined a suggestion that the legal interest should be raised to 8 per cent. in order to keep capital in the colony, and also to enable the bank to allow 6 per cent. on deposits. In a former part of this chapter an opinion was hazarded of the extreme danger of deposits, unless a bank possessed a large capital at command; and a rise in the rate of interest is a measure directly in opposition to the principles of the best œconomists. Adam Smith writes, that as riches, population and improvement have increased, interest has declined; and although this state of things does not appear to have taken place at the Cape, yet it would be difficult to show how any relief could be given by high interest, or how it could afford any good, adequate to the mischief it might produce. One evil would be immediate, an advance in the price of all merchandize. It has been the policy of most nations to keep down interest. A low rate of interest assists the state in its financial operations, and individuals in the improvements of agriculture and commerce.

It must not, however, be imagined, that the paper currency of the Cape more or less improved, can give effectual relief to the exchange on England, as long as the balance

* Since writing this article, the colonial government has, by a proclamation, notified the intention of issuing debentures at 4 per cent. on the principle here recommended, for the sum of £200,000 rix-dollars. There remains, however, one very material distinction. The government debentures are not to be secured on any part of the colonial revenue, and are therefore no more than an exchange of one sort of unsecured government paper for another. To place colonial paper not convertible into cash upon a footing of credit, the pledge of something real is absolutely necessary; it otherwise constitutes nothing but a counter of another description.

of payments sets so strongly against the colony; and were government, in this hour of pressure, to yield to any quackery in finance, it would very soon experience that a forced attempt to counteract natural consequences must inevitably increase the evil, and finally force the colony into total ruin.

It is almost superfluous to mention, that there is no metallic currency in the colony, except English penny-pieces; for it must be obvious to every one, that at the present rate of exchange gold and silver coin must have left the Cape. A period might come in which the creation of a colonial metallic currency would produce favourable effects united with conveniency; but it appears to be impracticable until the paper rix-dollar rises nearer to par, or acquires something like a fixed value. A few thousand Spanish dollars remained, as long as the troops were paid in that coin. The rix-dollar, more beneficial to the soldier at the present exchange, has been lately substituted; and of the Spanish dollars some have departed for London, and those which remain are making preparation to go upon their travels. The golden and the silver age are forgotten by the inhabitants of the Cape, and are remembered only in Ovid's Metamorphoses.

In the Lombard Bank there is a president, three directors, book-keeper, cashier, and clerk; and in the discount bank there is the same president and directors, a cashier, an accountant, an assistant ditto, and clerk; all of which are colonial appointments, and removable at pleasure.

SECTION II.

Wine Taster.

The office of Wine Taster was created in 1811 by Lord Howden, then governor, in consequence of charges of fraud or negligence said to be practised by the wine growers, coopers, or shippers, greatly injuring the character, and preventing an increased export, of Cape wines.

After the surrender of the Cape to the English, the cultivation of the vine advanced rapidly, and wine grew into a

considerable export to Great Britain. Had the quality of wine improved with the rate of export, and the taste of the English been consulted by increasing the red wines, the probability is, that the annual consumption of the mother-country would have doubled itself, and the wine acquired a permanent footing at the English table.

The sudden demand acted in its usual manner, by deteriorating the quality, and increasing the quantity, of the wines; and the taster received such instructions as were thought advisable, in order to counteract the evil. By his office, he is bound to taste and approve every cask of wine for exportation, and to grant a certificate thereof, which, when produced to the officer of customs, entitles the bearer to a permit for shipment.

This appointment, leading to an expectation of great improvement in Cape wine, assisted by the liberality of Great Britain, who in the year 1813 reduced the duty on Cape wines to one-half of that on foreign wine, gave a second powerful stimulus to the growth, and to the export.

It is, however, impossible for a wine taster to exercise a correct judgment, when, from the nature of shipments, there are three or four hundred pipes on which to decide in one day. The palate loses its distinguishing power, and wines of a poor quality and flavour were probably introduced with others, and passed as good: the market was glutted, and the public disgusted with such execrable stuff, under the denomination of wine.

There exists a doubt in the mind of many, whether these restrictions of the Wine Taster are founded in justice and in true policy. Why should a distinction be made between wine and other produce?

The exportation of all other articles, whether of superior or inferior quality, is allowed, and all find their comparative value in a market. On what principle of fairness is a wine boer, possessing a vineyard of meagre quality and flavour, prohibited from doing the best he can, or from getting such price as may be gained on export? Coarse sugar as well as fine is exported from the West Indies. There is London particular, West India and cargo wine, exported from Madeira. All these find a proportionate price in the market, and every one is satisfied.

To preclude an inferior article from being exported, in the hope that all of the same sort, may become excellent,

is to contravene the laws of soil, climate, and manufacture.

With all this care and interference the quality of Cape wine does not appear to be much improved, nor is it in the power of the acts of a wine taster to overcome nature, and to prevent Cape wine from being *racy*, or tasting of the soil.* When price cannot create excellence, the prohibition of export will never succeed.

The wine taster charges and pays to government three rix-dollars as his fee on each pipe exported, and one rix-dollar for guaging.

The wine taster is not required officially to pass judgment on any other wine but that which is for export; and the inhabitants are indulged with the unrestrained privilege of drinking wines of the most wretched quality.

The wine taster, deputy and clerk are appointed, paid, and removable by government.

SECTION III.

Pagt and Pagter, or Wine Farmer.

In this establishment, morals give way to revenue. It is poor consolation to know that the Cape is not the only country in the world in which such a circumstance takes place.

The Pagt is the monopoly of selling wine by retail, and the Pagter is the farmer of that monopoly. A government advertisement appears in the gazette, fixing the day of bidding for the wine farm of the ensuing year, which takes place at the stad, or town-house. The manner of bidding for articles of value, such as houses, and estates, and exclusive farms or monopolies, differs from that of other countries. The article to be sold is at first put up by the auctioneer in the usual manner, and the biddings go on to as

* Dr. Johnson, in his life of Thomson, writing of Thomson's frequent revision of his own works, observes,—"They are, I think, improved in general, yet I know not whether they have not lost a part of that which Temple calls 'their race,' a word which, when applied to wines in its primitive sense, means 'the flavour of the soil.'"

high an amount as any one will venture, who has no wish or real intention to be the purchaser. To encourage these speculators to go on bidding, money sometimes to the amount of more than one thousand rix-dollars is given to the individual who bids the largest sum on the advance, and this is called the strykgeld; but, in return, the bidder must take the property, if on the down-bidding no one gives more. When the up-biddings are finished, and no one advances, the property is put up by the auctioneer at a high ideal price beyond the value, and the biddings are downwards. On a property, which in the hope of the strykgeld has been bid up to 20,000 rix-dollars, the auctioneer will begin the down-bidding at 40,000. He then will call 39,000, 38,000, 37,000, descending by degrees, till some one calls out "mine," which finishes the purchase; and provided the price is beyond that of the up-bidder, the latter then receives the thousand rix-dollars strykgeld; but if below, he takes the property at the price he bid, receiving the strykgeld.

This plan is advantageous to a seller. The person who means really to buy, never bids up, wishing to conceal his views, and as he knows others do the same, he is afraid of losing his object, and, in his eager anxiety, calls out "mine" at a price frequently greater than the real value, or than the seller could have procured by private contract.

The actual pagter exclaimed "mine" when the bidding which, on the advance stopped at 300,000 guilders, fell on the down-bidding from 500,000 guilders to 340,000. A guilder is now a nominal coin, one-third of a rix-dollar, which, at the present exchange, is about 1*s.* 6*d.* sterling; so that the present pagter pays 8,500*l.* sterling for the exclusive right of vending wine and spirits by the glass, bottle, or small cask.

The sale of the wine farm is an important addition to the revenue, and strong regulations (vide Appendix VI.) are passed by government proclamation to guard it from inroads.

The late pagter opened a very large store or cellar in the Burg street: this cellar was denominated the Big Butt, and around it, from sun-rise to sun-set, was assembled every description of vagabond in the town, male or female, with the addition of half-naked Hottentot men and women, fighting and rolling about the street in eternal drunkenness; and

hither a Spartan might send his children to deter them from drunkenness, by seeing what a drunkard is. It may be a question whether the having one street during a whole year a scene of perpetual riot and noise, be preferable to the same quantity of nuisance dispersed through the town. The present pagter will solve the doubt, for he has adopted the plan of opening houses in all quarters, to the number of eighty or more, for the accommodation of the drunken part of the community.

The soldiers are kind friends to this institution; and every soldier is computed to be a monthly customer to the amount of five shillings. A garrison of between two and three thousand men is valuable to the pagter; and he hails with rapture the arrival of any additional number.

The price of Cape wine of one year old, bought from the wine boer, is now under fifty rix-dollars, or 3*l*. 15*s*. per legger of 152 gallons, and it may be retailed under one schelling, or 3*d*. sterling, per quart bottle, after it has been doctored by the wine merchant.

A newly arrived soldier, on hearing this, thanked heaven, that he could now afford to get as drunk as a lord, with the liquor of a gentleman.

It must be obvious that sobriety cannot reasonably be accounted a leading virtue amongst the population of Cape Town; at least, amongst the English part of it.

The experiment of granting individual licenses was tried a few years since; but the sum raised by government was so trifling in comparison with the pagt, that the plan was abandoned. The pagter grants licenses to individuals in his district, far and near. His farm does not extend to the distant drostdys; but the settler cannot comfort himself with a glass or bottle of wine, purchased by retail, but through the intervention also of the pagter of his own drostdy and his agents.

The pagt is under the tutelage of the fiscal, who is instructed to take care that the beverage is wholesome, or at least as little detrimental as slow poison can be. He is authorized to levy a fine, and to spill the liquor if it is found to be deteriorated or adulterated, and this without any form or process of law.

The quantity of Cape wine retailed by the pagter in one year, is computed at 1200 leggers, or 182,400 gallons; to which must be added, 600 leggers of rum, arrack, and Cape brandy.

SECTION IV.

Vendue Office.

The state of credit at the Cape is so precarious, that traders and others prefer selling property at public sale, by the commissary of vendues, to incurring the risk of unpunctuality in a private purchaser.

The Commissary of Vendues is a civil officer of government, and the only person in the colony allowed to sell by auction, the doing so being a government monopoly. He employs four auctioneers, and a proportionate number of clerks, occupied in making up the daily sales, of which he renders a copy on stamp to every seller. The commissary of vendues charges 2½ per cent. on all sales of real property, and 5 per cent. on all others, which he pays to government. There is a charge also for the stamps, copies, &c., so that 5½ per cent. may be calculated on large sales, and 5½ on small ones. The commissary of vendues guarantees the payment to the seller, three months after sale, and is himself protected from loss by having the next preferable claim, after bonds and the government bank, on the entire effects of a dilatory or insolvent debtor, and by an immediate execution, without further process of law, than producing the vendue roll, before the court of justice. There are, however, some who consider the preferable claim of the vendue master not to be founded in justice. When the number of inhabitants in the early days of the colony was limited, and the private sales, except on the terms of immediate payment, very inconsiderable; it was just, that the individual who alone gave three months' credit, should be protected. At the present day, owing to the increase of buyers and sellers, and to more extended demands, sales on credit to a greater amount than formerly, take place at the stores of the merchants, who contend, that the debt to the commissary of vendues should now, in fairness, be only concurrent. The vendue auctioneers give security to the commissary of vendue, and it behoves them strictly to watch over the credit of a buyer. They demand permanent security from the general purchasers, who readily grant it, that the course of their biddings may not be impeded by doubts of their sufficiency.

The commissary gives his acceptance at three months for the amount of sales made, which the government bank discounts at the colonial interest of 6 per cent. for the unexpired term the note may have to run. The colonial credit on goods and merchandize at the Cape may be estimated at three months. The vendue rolls are readily taken in payment by every one, and are the only description of paper-currency besides the rix-dollars that has full credit throughout the colony. The sales of real property are usually made for three equal payments—one at three months, one at one year, and one at two years; any deviation from this is by agreement. This monopoly is very beneficial to the revenue. The gross amount of vendue sales is computed to be about 250,000 rix-dollars monthly, and to yield a profit to the public purse of 140,000 rix-dollars per annum, after deducting all expenses. To this is to be added, the value of stamps on which every vendue roll must be made out, increasing according to its amount. These may amount to 40,000 rix-dollars more, so that this whole branch of the colonial revenue may produce a yearly sum of 180,000 rix-dollars.

To those who are unacquainted with the Cape, it may appear a grievance that an inhabitant must employ a government auctioneer; but the security and the currency of the vendue note so amply cures every objection, that the difficulty is to get a vendue day.

The amount of the property movable and immovable, as it is here termed, which is annually disposed of by private bargain, does not appear to amount to more than one-third of the vendue sales; and the sum of four millions of rix-dollars may be considered to be the annual expenditure of the colonists, in lands and goods.

The consumption of corn, cattle, and wine, and of other articles of daily home consumption, is, in a very small degree, included in the vendue sales, and are chiefly transactions at market, or by private bargain.

The commissary of vendue, with his whole establishment, is remunerated by government, the amount of all profits and fees being paid into the colonial treasury. The appointments to the vendue office are made by the colonial government, and the officers are removable by the same power.

CHAPTER IV.

BURGHER SENATE—ORPHAN CHAMBER—PRINTING-OFFICE—RELIGION—REGISTER OF SLAVES—AND GOVERNMENT SLAVE LODGE.

SECTION I.

Burgher Senate.

THE Burgher Senate consists of a president and four members, a secretary and town treasurer, who is also assistant secretary.

The president remains in office two years, and receives three thousand five hundred rix-dollars annually, for his services. The senior member succeeds to the presidency, and the election of a new member takes place by the board. Three persons are returned by the majority of votes, and their names sent to the governor, who selects one out of the three. There is also a comptroller and auditor, an office newly created, but probably become necessary by an increase of accounts. He is not a member of the board, having a separate office in the stad or town-house, which is occupied by the burgher senate.

The duties of the burgher senate are of peculiar importance to the public; and the punctual discharge of that which the senate undertakes to do, influences the whole Cape population. The cleanliness of the public streets, the prevention of encroachments on the public land, the sale of that land, the regulation of weights and measures, an attention to the supply of fire-wood for the town, and to the prices of various articles of first necessity, in order to prevent imposition; the management of the reservoirs, water pipes and fires-engines; the levy and receipt of the town taxes, the control of the butchers, the duty of suggesting to government the necessity of the importation and non-exportation of such supplies as may be wanted for the people, are some of the objects placed under its care. There is,

however, one other point of vital importance to the Cape. The burgher senate has the entire management of the public granary, and of the town bakers, having the power to give licenses to some, and to refuse them to others, without the necessity of assigning a reason; fixing the monthly assize and quality of bread, and overlooking every step both in the market and elsewhere, by which the bakery is influenced; at one time forcing the bakers to purchase corn from their own granary, at another ordering them to buy in the market. In a word, exercising the most domineering influence over this body of men, in the view, it is presumed, of the public good.

The burgher senate makes rates on the inhabitants, according to various proclamations, and receives the town taxes, which chiefly consist in an income tax, a water tax, housetax, and one for the Caffer commando, levied for the payment of the expense of the Boers acting against the Caffers. It also receives head money, paid by every free person after a certain age.

It is difficult to conceive how it can happen, that men respectable for their character, and for their wisdom and abilities in private affairs, after entering the stad-house and forming a board, should instantly become objects of dislike and derision as a public body; charged with unfairness and incapacity, and with the oblivion of the common maxims of human life in the conduct of the affairs committed to them. Have the waters of Lethe forced their course through the stad-house?

One principal cause, is the suspicion of an unequal and partial levy of the taxes. It is asserted, that the commando tax, which is a specific amount ordered by proclamation, is imposed by the senate in unfair proportions; that some, possessed of an indifferent house and small means, are rated as high as others, of greater property and more magnificent abodes; and that other taxes are levied with similar unfairness; that the Dutch proprietors are spared, and the English loaded; that upon remonstrance, or even on an humble request of explanation, the insolence of the lower officers of the department is not to be endured, adding greatly to the dislike and disrepute of a board, countenancing such conduct in their servants. Another powerful cause is the culpable mismanagement of the granary, of the bakers, and of all that concerns bread, "the staff of life." An hungry people will complain, and the senate is loudly charged as

being, through its ignorance and servility, by giving way to an export of corn with an empty granary, the cause of dearth in 1819, and again, through similar imprudence in 1821, bringing a scarcity of bread on the people, amounting nearly to famine.

"If this imperium in imperio is to exist, let it reform its conduct and retrace its steps;—let it, as the first advance to a better understanding, free the bakers and butchers from bondage and restriction, allowing them to pursue their own private interest in their own way, which is the straight road to cheapness through competition. The burgher senate should follow the advice given by a French mercantile body to the minister of finance, who, anxiously inquiring how the grand monarque could best serve it, received for answer, "Laissez nous faire;" a saying which every government should keep in mind, when it meddles in commerce or manufactures.

"The first step, and a most important one, is to procure by import now, and by purchase from the Boers, for the future, a stock of corn adequate to the consumption of six months, ready to be brought forward at any moment for sale, like the goods of any other merchant; a thing indispensably necessary and never to be omitted, in order to secure a supply of bread, in a country where the harvest is so uncertain and precarious, that a failure in the crop takes place every three or four years, and where four thousand settlers from England, bread eaters, hungry and unprovided, have suddenly fallen upon unfavourable harvests, inadequate for the supply of its own gradual increase of population.

"The corn Boer complains that, when there is an abundant harvest, the supply of wheat sent into Cape Town, in January, February, and March, so far exceeds the demand, that without export, the price is inadequate to repay the culture; and asserts, that a sum below one hundred rix dollars per load of wheat of ten muids, will neither save him from loss in the most abundant season, or encourage the growth. Whenever the price of corn is below one hundred rix dollars per load, the grain committee of the burgher senate should operate as an export, and purchase all the wheat that is brought into market, re-producing it like an import in October and November, when the markets are bare. These two measures will assist the public and the Boer, and both will be content. It would tend to equalize

the price of bread at a reasonable standard, and it will afford to the senate the means of purchasing a fresh yearly supply of grain to be stored for the public exigencies.

Let the same meddling system, practised towards the baker, (Appendix E.) be withdrawn from the butchery. Within a few months, the burgher senate has effected the removal of the butchers, heretofore spread throughout the town, into convenient well arranged shambles by the sea-side. Till this period, the owner of the best house in the Cape might be annoyed at any time, by the establishment of a slaughter-house at the next door, which in a hot climate is intolerable. The judicial distinction of the individual going to a nuisance, or of a nuisance coming to the individual, is unknown here. The removal therefore of slaughter-houses was salutary and judicious; but as meat, when cut up in joints, is also forbidden to be sold in private houses by the butchers, great inconveniency results to the distant inhabitants, particularly the poor, who are obliged to wander at great loss of time, to this extreme part, for their daily pittance. It must be allowed by all who have witnessed the clean, well ordered butchers' shops in Bath and London, that the sight of so much delicious food is not an unpleasing object to those, who are certain of having a share, at dinner, of the delicacies they have viewed with so much satisfaction.

The burgher senate has published instructions to the butchers, and even to the butchers' wives, (Appendix F.) as oppressive to individuals as the laws of any despot. In these instructions, the public is informed that the butchers are allowed to occupy the new shambles "gratis." In Europe, gratis means "for nothing." In South Africa, it means the imposition of a new tax on the public, advanced by the butcher on the morrow of the slaughter of each ox and cow, two rix-dollars; calf, one rix-dollar; lamb, sheep or goat, one quarter dollar; raising thus on the public (with the consent of the governor) an annual sum of 40,000 rix-dollars, in the worst possible way, to pay an annual interest of 7,200 rix-dollars, for the cost of the building. In what manner is the surplus expended?

The encroachments of uncontrolled power, whether in mighty or petty tyrants, act alike. The burgher senate have lately issued regulations, restricting the right of an individual to make an alteration in his own hearth, fire-place or

chimney, without their permission.* The pretext will be the danger of fire; but only *one* house has been burnt down within memory, although chimneys and hearths have been hitherto under the direction of individuals studying their own security, in these domestic arrangements. No more absolute or more wanton stretch of petty power annoying the public, was never manifested. This fire, though very inconsiderable, is remembered to have happened in June, 1809, for a whimsical circumstance.

* *REGULATIONS to be observed in Cape Town, in laying Hearths, erecting Fire-places, Chimnies, or using Funnels, which Instructions are made by the Advice of H. M. Fiscal, and by the President and Members of the Burgher Senate, and approved by his Excellency the Governor.*

1. The proprietor or proprietors of all houses built in future, are to apply to the burgher senate, before fixing the beams where the hearth is to be laid, when a person will be directed to give the necessary directions thereon; also, in what manner the chimney piece is to be fixed.

2. Those erecting a chimney, or funnel, are to be under the guidance of the person, who is appointed to give directions.

3. No person shall be entitled to erect a fire-place in his house, without the previous knowledge of the burgher senate; when the same regulations must be attended to, as in Article 1.

4. Stoves must stand on iron plates, as nothing else will be allowed.

5. No person shall alter a hearth, fire-place or chimney, without the previous permission of the burgher senate.

6. The superintendant of this work must be duly respected.

7. He shall receive for his trouble, in attending the erecting or altering hearths, fire-places, chimnies or funnels, (which he must attend until completed,) two rix-dollars.

8. It is optional who the person employs, in erecting a hearth, fire-place or funnel; yet to be under the direction of the person, mentioned in Article 1.

9. Those desirous to employ the person, who is appointed by the burgher senate, are at liberty, on paying for the same; save the fixed sum of the said two rix-dollars.

10. Should it be discovered, that any of the above regulations have not been punctually attended to, the person so offending shall pay a fine of 25 rix-dollars for every such offence: divided, one-third to the town treasury, and two-thirds to the person giving information.

Thus done and decreed, at a meeting of the burgher senate, Cape of Good Hope, on the 27th February, 1822.

M. VAN BREDA, President.
By order of the burgher senate,
aforesaid,
P. J. TRUTER, Secretary.

FIAT.
(Signed,) C. H. SOMERSET.

stranger, tempest-beaten and sick, arriving in Table Bay, desired to be immediately landed, that he might enjoy ease and quiet. The day was intensely hot, but going early to bed, he was shortly after nearly thrown out of it by the shock of an earthquake. Terrified, he fled with others to the fields for safety, and returning in the morning, the day passed quietly. At night fatigued, he went early to rest, and soon after the alarm of fire was given, and the next house burnt down. The stranger instantly ordered a boat, declaring "water to be the safest element: for in the last forty-eight hours, he had been nearly suffocated by the hot air, buried by the earthquake, and burnt by fire."

In the appointment of a board called a burgher senate, it would naturally be expected that the burghers or the inhabitant householders would have votes, or some share in the choice of those who were to regulate all which interferes so materially with their pockets and their enjoyments. The colony has been fifteen years in uninterrupted British possession, yet no Englishman has ever been selected as a member, a circumstance causing jealousy, in a body raising taxes on the community, where so many Englishmen are payers. The burgher senate is, in consequence, considered as a mere engine in the hands of government, under whose orders every thing is supposed to be conducted, and the senators as so many puppets, moved by the wires of the grand magician of the day. To make this board acceptable to the public, an election should take place at stated periods, by the English and Dutch householders, paying taxes, who would elect those men who appeared to them to be best calculated to perform the duties with skill and fidelity. To levy taxes is an odious operation, but men submit to them less reluctantly, when their appropriation is conducted by those of their own choice. This forms the strength and value of a representative board in pecuniary transactions.

It is not here intended to advance any thing so absurd as that the burgher senate might not, by possibility, become an institution serviceable to the colony. It might even act, in a small degree, as a desirable check on government, in matters which relate to the care and domestic comfort of the colonists; but to be so, it must be remodelled, and acquire a new constitution. The mayors and magistrates of many cities in England are elected by the

wards; and the duties of these courts, and of the burgher senate, are in many respects not very dissimilar. If an election of members of the senate were to take place periodically, and the president chosen by the senate out of its own body, and approved by government, and the auditor and comptroller appointed by government, there could be no reasonable charge of undue influence. But into this, and into all the other numerous departments of the colony, it is become necessary to admit a due proportion of British-born subjects; nor will the colonist rest satisfied with the ill-judged system of selecting Cape-Dutch for the minor boards, almost to the exclusion of every English inhabitant.

The principle of gratuitous services is high and disinterested; but it will "endure only for a moment." Zeal abates; and whenever business is undertaken without pay, it is neglected without much reproach from the conscience of the individual himself, or from others. "The labourer is worthy of his hire;" and instead of giving salary during the two years of presidency, it might be better to allow an annual stipend to every member of the senate, in proportion to his rank and services. The public would then have a fair right to claim intelligence and attention; and the senate, elected by the burghers and householders, remunerated for its time, would discover it to be its interest to be careful, and to watch over the public good, and in so doing acquire the respect, esteem, and veneration of the inhabitants.

The senate has a treasury and a treasurer, and it is to be concluded that the large sums of money received from the town taxes are faithfully expended, in the fulfilment of the various duties committed to its care; but although there is a general knowledge about all other boards, here exist doubt and darkness;—nor are the accounts and expenses, with the exception of the commando tax, laid before the colonial auditor, or examined and passed by him.

There appears to be so much lending and borrowing between government and the senate, that it would be satisfactory if a clear and full account of the large and increasing receipts, and of the disbursements of this impenetrable and mysterious body, were annually brought forward and printed for the information of the public.

There is one establishment under the burgher senate,

of which no man can disapprove, though under that control. The ward-masters, a very respectable class of men in middle life, are charged with all the minutiæ of the domestic police of the town. Removals into or departure from the different parts of Cape Town, by inhabitants, and the apartments where strangers or foreigners lodge, are all ordered by law to be made known, under a penalty, to the ward-master, and by him to the senate, together with the avocations of the parties. It is a duty assigned to them, to take care of the cleansing the streets, and to prevent nuisances and obstructions of every kind, and to be on their posts in case of fire. Each ward-master serves three years, but, receiving no direct pay by way of equivalent for the service, is excused from paying certain taxes and imposts. The ward-master is enjoined to have his name in large letters on the front of his house, for the information of all who require his aid and assistance. This officer is compellable to serve, under the penalty of the loss of his burghership; and on refusal, (the governor approving) may be sent out of the colony, as an unwilling and refractory burgher.

SECTION II.

Orphan Chamber.

It is with pleasure and satisfaction that every man must contemplate an establishment so beneficial to society, and so honourably conducted by the parties. The qualification for the Orphan Chamber is thus described in the Instruction: "Orphan Masters are in general to take charge and administer to all estates of those who, dying in this colony, leave minor heirs, or heirs residing abroad, either *ex testamento* or *ab intestato*, provided the orphan chamber was not expressly excluded by the deceased; with the exception, however, of the estates of military, leaving no children in the colony, which are to be administered by the judge-advocate of the garrison, or any other person duly authorised."

The orphan chamber stands so high in public esteem, that many of the inhabitants appoint the chamber to execute the trusts of their will and testament, in preference to persons of their own family. There is a little additional expense to the parties concerned, by so doing, as five per

cent. is the commission allowed to the private administrators of the effects of a deceased person. When any one, not in his Majesty's naval or military service, dies intestate, leaving no children, or leaving any of them minors, the orphan chamber by law administers to the estate; and having realized the effects, and satisfied the creditors, unless there be any settlement before marriage (which is very rare) interfering with the usual disposition, they distribute the amount amongst the parties who are of age, according to the laws of the colony, reserving the shares of minors till they attain majority at twenty-five. Under the laws of the colony the widow takes one-half, whether it be real or personal property, and the other half is divided equally between the children, whether male or female; and if no children, to the nearest relatives of both father and mother. No one by will can deprive a child of its share of the legitimate portion, which is one-third of the property, where there are not more than four children; and if more, one-half. But a man can leave to his widow, in addition to the half she inherits, one child's portion. At the death of the widow unmarried, her half descends, in like manner, to the children; but if she has a second husband, and children by him, her property goes equally between such husband and the children of both beds, as does the property of the husband at her death.

If a married person dies intestate, and leaves children under age, the orphan chamber is at liberty, on the application of the surviving husband or wife, to suffer him or her to remain in possession of the whole estate, on condition that an inventory be taken, and a fair valuation be made of the same, according to which valuation, the half of the net balance is assigned to the children in equal shares, and left in the hands of the survivor, provided good security be given, that the share of each of the children will be forthcoming at their becoming of age. The principle of this regulation is, that it is the interest of the children themselves to have their parent remaining in the undisturbed possession of his concern, in order to prevent the danger of loss, arising from a sudden disposal of the estate; and also to preserve more fully to the surviving parent, the means of educating his children. It is always to be kept in view, that community of property among married people is the

law of the colony, unless excepted or restricted by a settlement before marriage.

In default of children, the succession goes nearly in the same line as in England, with the exception that the half-blood is admitted to share equally, and that there is no advantage from primogeniture.

If an inhabitant, or a stranger, die at the Cape without any acknowledged relatives, the property, after discharging the debts, is sold, and reserved for "the unknown heirs," and every method is taken for the discovery. If none appear within fifty years, the property, until an heir be found, is paid over to government. This, however, is a circumstance which is said rarely to occur. All wills must be produced to the orphan chamber before they are put in force by private executors or administrators, and an inventory where a sale takes place must be lodged in the chamber. The very large sums of money which are realized by the sales of the effects of intestates, and of other deceased persons, are, during the minority of the parties, lent on landed security, with the addition of two personal securities, in order to insure punctuality in the repayment. The colonial interest of six per cent. is paid every six months, upon any principal sum of not less than 25 rix-dollars to such as are entitled; whilst property of minors accumulates till majority; but an allowance is made to them suitable to their situations in life and the probable expense of education, according to the judgment of the chamber.

There is no difficulty in the succession of distant or absent heirs to the effects of their relatives dying at the Cape. They are required to send a power of attorney, with proofs of their consanguinity, and of their title to the inheritance; and on receipt of the legal documents, the amount is immediately paid. After the death of a stranger at the Cape, should a friend of the deceased suggest the propriety of reserving such trinkets or remembrances from a sale, as might be desirable for the friends to retain, they are most readily reserved by the orphan chamber, provided the debts are not unpaid. In truth, punctuality, fidelity, and proper feeling, are the qualities of the orphan chamber at the Cape of Good Hope.

There is one case in which the interference of the orphan chamber appears to be improper, though perhaps not

illegal.—If a married couple come to the Cape for a mere temporary occupation, on account of ill health, or other cause, and one happens to die intestate, leaving children, the orphan chamber claims, and has exercised, the right of distribution. If, for example, a wife dies, an English woman, who by the laws of her country possesses no property, except by will or settlement, distinct from the husband, the chamber might take possession of her clothes and trinkets, and divide them between the husband and children, according to the colonial law; and it is owing to discretion and proper feeling, that the law is not always put in execution.

A board is held every other Wednesday, at which either the president or vice-president must attend. Three members make a board. No decision can take place on matters of importance, unless the president personally attends. In cases where individuals consider themselves aggrieved, the court of justice is open for their redress.

In the Dutch time, the board, with very different feelings from those of this day, helped itself, and deducted its own salaries from the receipts. The English government abolished the practice. The fees and profits are now paid to the government funds, and the accounts examined and passed by the colonial auditor. There is a president, vice-president, four members, a secretary, and clerks; all of whom are appointed, paid, and removable by the colonial government.

NOTE.

A short Statement of the Testamentary Laws at the Cape.

An estate, in Cape-Dutch law, includes that of which a deceased person dies possessed, as well real as personal property, comprehending debts and actions.

The right to an estate is by inheritance, whereby a person obtains the actual possession of the property in existence, including all actions; that is, all right and claim which the deceased had against another, at the same time becoming subject to the debts of the deceased, and to all legal claims against him.

The manner in which an inheritance is acquired, is by

last will and testament, or by the law of succession—*ab intestato*.

The disposition by last will or testament excludes the succession by law, the law only regulating the succession when the deceased has not made a will.

WILL OR TESTAMENT.

A will is a legal declaration of a man's intention after his death.

Wills are made either before a notary and two witnesses, who, together with the testator, subscribe the same,—or before seven witnesses specially convoked for that purpose.

Wills may also be made by the testator, and subscribed by himself, without the presence of either notary or witnesses; but then the will, being sealed up by the testator, must be presented to a notary, and declared to contain his last will, of which the notary writes a certificate upon the cover of the will, signed by himself, the testator, and two witnesses.

The intrinsic substantial solemnities of a will are:—

A.—The appointment of an heir or heirs.

B.—The bequest of some inheritance to children by their parent, and to parents by their children, at least in the legitimate portion; which with respect to children, if they are four or less in number, is one-third of the net amount of what they would have inherited ab intestato, and if five or more, one moiety; and with regard to parents, always one-third.

C.—No disinherison of child or children by their parent, or of a parent by his child, is of effect, without assigning some legal cause for so doing, and proving the same before a commission from some judicial board.

Brothers and sisters are entitled to a legitimate portion, only, in case the deceased instituted an infamous person as his heir. Except the legitimate portion to children or parents, and in the extraordinary case just mentioned to brothers and sisters, a man may dispose at his pleasure of the remainder of his property, in behalf of whomsoever he chooses and in such shares as he thinks proper.

There are, however, some persons excepted, who may not inherit by will; for instance, persons retaining with the enemy, banished persons, illegitimate children, &c. of

which an enumeration may be found in Van Leewen's Commentaries on the Roman Dutch Law.

A codicil is a sort of last will, in point of solemnity nearly similar to a testament, but not containing the appointment of an heir or heirs, but merely legacies, the appointment of executors, or some other last disposition; but not the disposal of full inheritance.

There is also a sort of codicillar disposition, requiring no solemnity whatever, but merely the testator's own handwriting, or own signature; provided the testator has, in a preceding solemn will, expressly reserved the power of this mode of disposition.

LAW OF SUCCESSION.

The law of succession operates where the deceased has either made no will at all, or when his will, on account of some substantial defect, is set aside.

In the first place, the law calls to the succession descendants.

The deceased having no descendants, the ascendants are called in some cases, and brothers and sisters in others.

In case neither descendants nor ascendants exist, brothers and sisters, together with the children of predeceased brothers or sisters, inherit; the nearest of kin excluding those who are in a remoter degree related to the deceased.

SECTION III.

Printing-Office.

The liberty of the press is a feeling so congenial to the heart of a British subject, that it is mortifying to describe such a degraded establishment as the government printing-office at the Cape of Good Hope. The annual circle of its duties consists in printing the Cape Calendar and Almanack, and a weekly newspaper called the Cape Gazette, which is in fact a mere list of proclamations, of civil and military appointments and promotions, marriages, births, christenings, deaths, the price of articles of produce, and advertisements of sales, the notices of the sequestrator, of the orphan chamber, of the burgher senate, and other

boards, all of which is extremely useful to buyers and sellers, but by no means amusing or instructive. The public is barely indulged with a scrap of European intelligence; and when such a circumstance does take place, it consists of matter suited to the submissive state of a colony. Some account of the defeat of a popular party in a nation, some praise of a king or of a minister—some quotation from the pamphlet of an honourable member, written to persuade the public, (vain attempt!) that "it is not expected that any perceptible advantage will be experienced in private life, from all the reductions in the power of any administration to propose, in the present state of the world, and the order of things in this country." *Lascelles' Letter.*

Here are no extracts from parliamentary debates, nothing breathing opposition or leading to discussion, for this might create a habit of thinking; nothing scientific, for that might enlighten; but the whole is a mass of uninteresting, tasteless stupidity.

Another daily occupation of the press is printing handbills and notices;—and this is the whole range of the British press, in a colony distant by a three months' voyage from the mother-country, to the interests and politics of which, at this distressful period, the European inhabitants are tremblingly alive.*

The Cape press has hitherto cautiously avoided opening a field for the discussion of such subjects of literature and of general polity, as might remind the reader of the English press, and might assist in opening the understanding, and liberalizing the minds of an ill-educated Cape-Dutch population.

It may be matter of surprize that, in Cape Town, individuals have not established a press as a private concern. There are men of diligence and talents equal to the undertaking; but in the Cape peninsula there are not English readers sufficient to give a probability of pecuniary remuneration equal to the necessary expenses. Sixteen hundred Cape Courants are printed every Friday evening, of

* Within the year 1821, the Cape press underwent the fatigue of printing a sermon against slander; and twenty copies of 176 lines each, in rhyme, entitled "Emigration," written to immortalise the virtues and talents of Sir R. S. Donkin, the acting governor. Both were printed by order of the acting governor, and the laudatory one for his own distribution in England.

which government dispatch by the post of Saturday about six hundred, to the drostdys and to the public functionaries in the country, without expense to the parties. The different departments also in Cape Town receive the Courant for the use of their offices. The remainder is purchased by the Cape merchants and other dealers, to guide them in their attendance upon the daily sales, and to inform them of the government official regulations.

The gratuitous circulation of so many papers through the colony, with the insertion of government advertisements, and those of private sales through all the drostdys, by the Cape Courant, give an advantage against which no other paper could stand; so that, in the present state of Cape Town, no such attempt can be recommended. One printing-press was brought out, and government made the purchase of it; but the numerous settlers on our eastern coast will not long be content to bear their fancied or real grievances without the English luxury of grumbling in print—and to that quarter men must now look.

A free press, bearing hard upon the vices and absurdities of mankind, is the grand corrective of the present times. It holds up infamy to contempt and scorn, and marks out folly for derision. It awes oppression, and bestows on worth and merit the reward of public regard. It improves the morals, assists the cause of virtue and religion, and guides the taste of society. It may become licentious; but the powerful hand of the law can chastise its intemperance. The freedom of the press was the means through which English liberty survived the house of Stuart, and the more recent attacks of these later days.

In the heterogeneous mixture of individuals located in the district of Albany, there are no doubt ingenious and literary men, qualified to be editors of a newspaper; and if it be conducted with temper and discretion, uniting colonial occurrences with an impartial and judicious selection of European news, politics, and literature, it would add essentially to the gratification and improvement both of the old and new inhabitants. By the receipt of the weekly Courant from the Cape, the proclamations and official documents binding on the community, might be inserted;—to this would be added the course of events arising in their important portion of the colony, and the advertisement of their local trade and commerce. It is therefore to the east

that the Cape must look for the liberty of the press, and for the knowledge and circulation, through the medium of a newspaper, of all which the censor of the press at Cape Town would refuse to insert.

The Cape Courant is conducted by a superintendant and compositor, a corrector of the English, pressmen, &c. The censor preserves the strictest incognito. The press is a source of small emolument to government, through the numerous advertisements inserted by individuals.

The new appointment of editor to the Cape Courant has lately been made, but it would be a sacrifice of truth to state that there was any perceptible improvement in style, intelligence, or in vivacity. It is to be expected that the politics of the Cape court should give the bias:—but although the chief dishes are cooked to the taste of the head of the table, the other guests might relish them better with the addition of a *sauce piquante*.

—This establishment is appointed and paid by the colonial government, and its officers are removable at pleasure.

SECTION IV.

Religion.

The established Cape-Dutch church is Calvinistic. The duty is performed twice on a Sunday to a numerous and apparently devout congregation, and also on saints-days. There are three clergymen, who attend alternately at morning and evening service; and catechising the young people is at particular periods an important part of their weekly duty, which is performed with great regularity, equalled by the strict attention of the learner.

The sacrament is given every three months, and the stores and offices of the Cape-Dutch inhabitants are closed on the preceding Friday, and on that day there is a church service, by way of preparation for the solemnity.

The Dissenters or Lutherans have lately erected a very handsome church at the top of Strand-street, on the rise of the Lion's-hill. The swan of Luther adorns the front,

* Huss was in most points a strenuous Calvinist, if we may anticipate the epithet; but neither he nor Jerom of Prague denied the real presence in the Eucharist, and Transubstantion. It is said, that at his execution

The tower and spire are ornamental to Cape Town. This church was finished in 1820, at a very heavy expense, by the subscription and donations of the Lutheran inhabitants, who are numerous. It is said that remonstrance was made against a tower and steeple, as being a style of architecture to be applied only to the established church. Persuasion and menace were in their turn held out to induce the abandonment of that part of the plan. The Lutherans strongly maintained their right, and in this instance, taste, protected by law, prevailed over presumption, and the Lutheran tower and steeple stand a leading attraction in Cape Town. In the Lutheran church there is only one predicant or clergyman, who prays and preaches every Sunday morning, and on saints-days, also catechising the young people every Wednesday in the year. The sacrament is given quarterly, and the previous Friday is by Lutherans, as well as by Calvinists, kept holy. There is every appearance of strong religious feeling in the Cape-Dutch character, and a strict observance of church duties is constant and unremitting.

There are public examinations of the progress of young persons in Christianity before the elders of both churches, and great attention is paid to the poor by the deacons, who visit them in turn, giving clothes and money periodically, adequate to their wants. The funds are considerable, arising from money at interest, from church donations, from legacies of the devout, and from a sum of fifty-six dollars paid on the manumission of each slave, by the manumitter. This latter sum is paid to the established church only, which is unjust, as the Lutherans may be called upon to support manumitted slaves of their own persuasion. The Lutheran church predicant is alone unpaid by the colonial government, having an allowance of 183 rix-dollars only, arising from some peculiar circumstance. In the Dutch time, the Lutheran church was dissenting, and, therefore bereft of all claim on government; but now both churches dissent from the national established form of worship of England. The Lutheran approaches nearer to the Anglican

in 1415, he asked the executioner, "are you going to burn a *Goose*?" (the meaning of Huss in the Bohemian language), "in one century you will have a *Swan* you can neither roast nor boil." This was afterwards interpreted to mean Luther, who had a swan for his arms.—*Chambers' Biography*, Vol. xviii. p. 354.

church; and of the two, would appear best intitled to a government allowance, and it would be difficult at this day to assign a solid reason for the exemption. The senior predicant of the Calvinist, or established church, receives from government 3650, six-dollars, the second 3450, and the third is abolished. The English have no church, and the service is performed by permission, in the Dutch Calvinist church. There are two English chaplains, one civil, the other military: both of whom read prayers and preach every Sunday morning. No church service is performed in the afternoon or evening, nor on saints-days or week-days; nor have the tolling of the bells at the churches, or the example of the Cape-Dutch predicants, and the appearance of the town with closed shops on every fast or festival, been of force sufficient to urge the members of the English church to a full performance of their clerical duty; and the whole congregational church devotion of the English at the Cape is confined to three hours on the day of Sabbath, except on Christmas day and Good Friday. The sacramental service takes place every three months. The civil chaplain does the surplice duty for the civilians, and the military for the army. Their emoluments exceed the medium value of livings in England, particularly those of the civil chaplain, which are very ample if considered as a remuneration for the duty performed. The clergy at the Cape have been and are men of learning and piety, and not without zeal; but none of them appear to have preached conviction to the minds of their congregation, that an attendance on evening church service is a necessary part of Christian duty. The only individual who, during his ministry of four years at the Cape, regularly performed evening service in the church, turned out not to be an ordained, but a self-constituted clergyman of the church of England; and though he was in the pulpit eloquent, animated, and impressive, he could rarely assemble a congregation of twenty persons.

The times are now more favourable to devotional exercises: and who can deny it to be the duty of a minister of the Gospel to have church service twice on a Sunday, as ordained by the rubric; and once on prescribed saints-days; or who can say, if opportunity were given, how much grace might abound?

The English congregation at the Cape is numerous:

the soldiers attend by regiments, and their martial music adds to the solemnity of the service.

Lately an English chapel has been established at Wynberg, formerly a military cantonment, which together with Rondebosch and other places in the neighbourhood of Newlands, the residence of the governor, is now the summer resort of the fashionables of the Cape. The clergyman who officiates was sent out by the Church Missionary Society to convert the heathen; and it must be acknowledged, with reluctance, that, being a conscientious man, and bound by his engagements to direct his efforts where there was most need, he has commenced his duties by a preference not very complimentary to this polite part of the colony.

In every drostdy there is a Dutch Calvinist church, paid by the colonial government. The endowment is insufficient, being two thousand rix-dollars, Cape currency, per annum, with a house and garden; but the high pre-eminence, which the Cape-Dutch clergy hold over the laity, may be accounted by them as part compensation for the duty. The Cape, however, cannot be accused of having a slender establishment of preachers, or of being without a sufficiency of predicants to instruct the heathen, if capable and willing to be enlightened: besides these, there is the whole array of missionaries of the different sects, not paid by the colony.

PREDICANTS.

At Stellenbosch	2000 rix-dollars per annum: with a house, garden and land.
Paarl	2000 Ditto
Swartland	2000 Ditto
Caledon	2000 Ditto
George	2000 Ditto
Swellendam	2000 Ditto
Tulbagh	2000 Ditto
Beaufort	2000 Ditto
Graaf Reynet	2000 Ditto
Uitenhage	2000 Ditto
Somerset	2000 Ditto
Clan William	2000 Ditto

MISSIONARIES.

Caffraria	1000 Ditto
Chinnie	1000 Ditto

CHAPLAINS.

At Cape Town . 700*l.* sterling

Simon's Town 360*l.* besides surplice fees.

There is a church at Simon's Town, with a colonial chaplain, so that those of the English who are disposed to attend divine worship have the means within their reach every Sunday.

Within these few months, the Roman Catholic religion has been more than tolerated, and subscriptions have been collected from inhabitants of all persuasions for building a Catholic chapel.*

It was in the contemplation of the colonial government to make an annual allowance to the Catholic priest; a Protestant government probably might not oppose any means of making the priest dependant; for he who pays, usually directs. The intention, however, was for some reason abandoned. In the British regiments, stationed at the Cape, Catholics abound. Government permits a soldier to attend on a Sunday at the church of his faith, but such permission is a mockery, unless encouragement be given to the establishment of the church and the priest.

These are many Catholics at the Cape in very respectable situations of life, who have not had the means till now of partaking of their own religious ceremonies, as, since the occupation by the English, no priest had been known to reside at the Cape. If this circumstance arose from a spirit of intolerance in the English government, it is extremely reprehensible; but if from want of zeal in the Ca-

* ROMAN CATHOLIC PLACE OF WORSHIP.

In my endeavours to build a Roman Catholic place of worship, on a space of ground which the burgher senate has allotted for that purpose; I appeal for assistance and co-operation to the generosity of the Roman Catholics of this colony. I am well convinced, the selfish consideration of the impossibility of their sharing in the blessings emanating from a proximity to the visible seat of their religion, will not operate with the Catholics, residing in the interior or distant confines of this colony in weakening the influence, or repressing the spirit, of their liberality and munificence.

To the beneficence of Christians of other denominations, I may exhibit the powerful claim arising from a fellowship in the worship of the same Divine Object of our gratitude and our hopes, which the enlightened and liberal views of modern times have, I trust, so happily taught us all to appreciate.

P. SCULLY.

tholics, it affords additional proof, how much the ardour of placing themselves in a situation to make converts has abated in the members of that faith; and is, as far as it goes, an argument against danger to the Protestants from that disposition of mind. There has arisen lately a spirit of intolerance towards sects of a form of worship differing from the English church. Is the Cape to adopt in the 19th century the exploded system of religious distinctions? Heretofore the baptisms of the chapels of the different missionaries, and of Catholics, were, together with those of the English, Calvinist, and Lutheran churches, admitted into the Cape gazette, but are now excluded.

A political commissioner, with the salary of 1500 rix-dollars per annum, is an appendage to the Cape-Dutch established Calvinist church. His duty consists in preventing the discussion of any state-matters at the meetings of the clergy or of the church authorities. If there were such an appointment in England, what an overthrow to the hierarchy; what ruin to the cry of "church and state"! There would be an extinguisher placed over addressing and protesting clergymen.

The missionaries of different sects are in considerable number, and in great activity; but the progress made in converting the people to Christianity is extremely slow. The London Missionary Society alone has twelve establishments in South Africa, conducted by sixteen missionaries. They are under the superintendance of a pious, learned and respectable divine, who is constant and active in the cause and duties of religion, and whose zeal, perseverance and abilities, together with the active interest he displays in all which regards the instruction of the heathen, may, it is to be hoped and expected, eventually produce corresponding effects.

The Westleyan Methodists have six missionaries. The Moravians have three; one at Genadendal, one at Witte Rivier, and the third at Groene Kloof. In addition to these clergy of *different* sects, it was agreed between government in England and the settlers, that the head of a party consisting of 100 families should be entitled to take out a minister of his own creed, whom the colonial government were to remunerate; which is done in respect of one clergyman of the Established church and of one Methodist.

The main efforts of the missionaries lie in the endeavour

to instruct and civilize the Hottentots, who appear to be already under considerable religious discipline and instruction. The Hottentot is quick in capacity, and the progress of his intellect rapid; but there is an unconquerable fickleness of disposition throughout that horde, incompatible with the steady efforts necessary for such attainments. A Hottentot, brought from his kraal, clothed, instructed, well-treated and fed, has been known, after a year or more of service, on the departure of a waggon to the frontier, to lay aside his clothes, throw a sheep skin over his back, and lead the fore oxen of the team, as is the usual service of a Hottentot boy.

This enthusiastic attachment to a roving life presents an almost insuperable bar to their domestic service and employment.

The missionaries have, at these different places, in part succeeded in teaching many of the men to be mechanics, and the girls to excel in needle-work, and have encouraged a few others to be good and faithful servants. The Moravians, by the union of usefulness with religion, and making industry and devotion twin sisters, have a firmer hold than any other sect.

The Hottentots at these Moravian missions attend divine service regularly, and the melody of their psalm singing makes a strong devotional impression on the congregation. The cleanly and artless dress and manners of the wives of the missionaries, and the orderly, devout, yet cheerful manners of the missionaries themselves, entitle them to the favour and respect of all. It would however be most beneficial to the colony, if it be found practicable, to instruct the Hottentot, without altering his constitution.

The Hottentots, both men and women, are shepherds, ox-herds, leaders of waggons; and the men drivers of them: and these duties are so absolutely required in the colony, that the greatest distress to the community would follow, were this class entirely domesticated. There is no part of the population so necessary to be encouraged and kept up, as the Hottentot, and none whom government should guard with more constant protection. The pasturage necessary to support the animals required for the food of Cape Town, and of the shipping, is so distant, and the flocks of sheep are so dispersed and so numerous, which must be driven four or five hundred miles over almost

trackless heaths and mountains, that the supply depends on the inimitable skill and inclination of this tribe to tend and to drive cattle. All that any one interested in Cape comforts can bring himself to wish, with respect to what is called improvement in the Hottentot, is that, instead of continuing to be a wandering heathen, he might become a wandering Christian.

There is a Bible and school commission, under the patronage of the governor, and under the management of the clergy of the established churches, English and Dutch. There is another of the same nature established by the London Missionary Society. The distribution of Bibles and holy tracts is liberal, but vanity is so prevalent even in the lower and untaught classes of mankind, that there is reluctance to receive or to buy them, in consequence of the stamp with the name of the society being affixed to the binding. More would be accepted and purchased if that unnecessary proof of the donor's generosity were discontinued.

The Malays, who are supposed to amount to nearly three thousand, carry on their devotion in rooms and halls fitted up for the purpose, and occasionally in the stone quarries near the town. One of their imams is said to be a learned man, well versed in the Hebrew and Arabic tongues, and in Al Coran, which he chants with taste and devotion. It must be acknowledged with shame and sorrow, that Mahometanism makes great progress amongst the lower orders at the Cape. But where there is the greatest zeal, there will be the most effect.

SECTION V.

Office for Enregisterment of Slaves.

SLAVE POPULATION.

	Males	Females	Total	
Cape Town and district, and residency of Simon's Town	7,114	4,608	11,722	
Stellenbosch	5,892	3,517	9,409	
Tulbagh	2,654	1,966	4,620	
Zwellendam	1,546	1,321	2,867	
George	958	849	1,807	
Uitenhage	567	533	1,100	
Graaff Reinet	1,367	949	2,316	
	20,098	13,743	33,841	
GRAND NUMBER				33,841

	Deaths & year		Manumissions, 1820.			
	Males	Females	Males	Females	Total	
Cape Town and district, and residency of Simon's Town	144	91	4	18	257	
Stellenbosch	120	48	—	4	172	
Tulbagh	36	17	1	1	55	
Zwellendam	20	12	—	—	32	
George	19	14	1	1	35	
Uitenahge	8	3	—	1	12	
Graaff Reinet	13	20	—	1	34	
	360	205	6	26	597	597
TOTAL						33,244

	Born in the year 1820.			
	Males	Females	Total	
Cape Town and district, and residency of Simon's Town	161	158	319	
Stellenbosch*	225	127	352	
Tulbagh	65	63	128	
Zwellendam	36	42	78	
George	34	40	74	
Uitenhage	20	21	41	
Graaff Reinet	39	54	93	
	580	505	1,085	1,085
GRAND TOTAL				34,329

* There appears to be an error in the proportion of births of males and females in Stellenbosch; but it is so returned to the office.

The above extract gives a most satisfactory reply to the assertions of the opponents of the abolition, that the slave population could not be kept up without very great occasional importation; as if the Almighty, when he sent forth the other creatures, male and female, upon their earthly pilgrimage, and bade them increase, multiply, and replenish the earth, withheld this high behest from the Negro alone, placed him out of the general law of nature, and incapacitated him for those results which bear upon all things breathing.

There are few living creatures even with a less proportion of females to males than appears in the Cape slave population, which will not increase in number, under fair treatment, in a climate not less salubrious than the one from which they may have been exported.

The enregisterment of slaves, much to the credit of the government, was in force at the Cape previous to the passing an act of parliament for that purpose; but it required prolonged periods to bring in the returns of an unwilling class of slave-owners, whose conscience became alarmed, and whose interests appeared to be invaded, by any step which led to inquiry and investigation. A proclamation declaring all slaves to be free not enregistered on or before a prescribed date, and those children also to be free, who, being born subsequent to the same date, shall not be registered within six months after birth, brought the business of registry to a close. The slave population extract of 1820 shows the births, deaths, and manumissions of that year, and the strides which domestic slavery actually makes. From that statement may be calculated what the increased number will be at the Cape of Good Hope in the course of a few years, unless the wisdom of parliament provide the means of putting an end to slavery at some limited period.

That the emancipation must be gradual, every man feels; but every man feels, also, that the non-import should be a step towards the abolition of slavery.

It does not appear, that any feasible plan of total abolition has suggested itself to the mind of that excellent and enlightened public character, to whose unwearied Christian efforts this abominable traffic at last yielded in Great Britain.

It is lamentable to learn the disinclination of foreign powers to unite in the overthrow of the slave-trade, and to

be made acquainted with the dreadful extent to which it is continued at the present day. Let not Great Britain grow faint in this path of true glory. Her perseverance in resisting the slavery of the world, when endangered by the ambition of France, led to those united efforts which finally overthrew the mighty enemy of true liberty. We may hope, therefore, that her continued and bright example will make her the leading star, guiding the nations of the world, to abandon for ever a commerce productive of so much guilt to the one party, and of so much wretchedness to the other.

From the slave population return of 1820, it will be seen, that the excess of births over manumission and deaths, amount to 488, on a colonial population of 34,329. Those causes which, in the view of Professor Malthus, retard the progress of general population, are without operation in the slave population of the Cape. Here the moral, the preventive, and the positive checks are without force. The value of a slave is so great, that, whilst nature and climate urge on, morals, habits and religion offer no impediments, and cupidity produces food in abundance, however dear, for the increase of so valuable a property. In the neighbourhood of every house may be seen a swarm of infant and juvenile slaves, careless of the future, basking and playing at one season in the sun, and at another reposing in the shade, with every symptom of health and happiness.

This population, with all its encouragements, will, in human probability, double itself in about twenty-five years; and in the year 1846, the colony may look to the number of nearly 70,000 as its slave population.

The Morning Chronicle of June 29th, 1821, reports a speech of Mr. William Smith, a member of the House of Commons, of great abilities, and remarkable acuteness of intellect, and an original and active abolutionist, in which that gentleman observes, that 'It was of extreme importance to resort to every means to prevent the extension of slavery in the Cape of Good Hope.'

If Mr. Smith could have suggested such practical means as could reasonably have been adopted in preventing the extension of slavery other than emancipation, in a colony where 488 new slaves, beyond deaths and manumission, annually grow, it would have been well; but in complete opposition to Mr. W. Smith's admonitory observation, it must

be noticed, that, previously, in July, 1819, the act of the 59th of Geo. III, cap. 120, gave, what appeared effectual encouragement to the extension of slavery in the Cape of Good Hope. That act, in section 11, provides for the export, from one British colony to another, of any indefinite number of slaves; so that the whole or any part of the slave population of Mauritius might be sent to extend slavery at the Cape; and the number would be without limit, as the united efforts of the navy and of the government of Mauritius, that is, interest and power, acting in concert, have been, and are still, unable to prevent the smuggling of slaves from Madagascar. The price of a slave here quadruples that at Mauritius; could any man doubt the extension of slavery at the Cape, thus protected by an act of parliament? Fortunately, however, a proclamation of the Dutch governor, Jansens, still in force, prohibits the landing of slaves. Thus a law, proclaimed in the time of the Dutch, upon which the British colonial government has since acted, guards the Cape from those consequences which the legislature most incautiously allowed; and the colony is protected from the entry of new slaves, by a law of its own, and not by the British parliament.

It may not be unnecessary to add, that the French government, having possession of the Isle of Bourbon, have now sent out a naval and military force, to repossess themselves of the island of St. Mary in Madagascar with the consent of the king of that island; greater apprehension must be entertained of an increase of slaves smuggled into the neighbouring islands and colonies, so long as the slave-trade is permitted to exist by the French government.

In the same Report, Sir Robert Wilson thinks it deserving the consideration of government whether it would not be "worth while" to purchase the "few remaining slaves" in the colony. These few remaining slaves, amounting, as has been seen, to 34,329, at the low average of fifteen hundred rix-dollars each, not half the price of a valuable man slave, will amount to the sum of four millions, one hundred, nineteen thousand, four hundred and twenty pounds sterling (4,119,420*l.*). Sir Robert Wilson may therefore convince his own mind, how impossible it will be for the English government to comply with what he thinks "worth while," and to load the people with such an additional burthen, even in so righteous a cause.

It is unnecessary to use any retrospect as to the conduct of the Cape-Dutch previous to the surrender of 1806, and it is only an act of justice to say, that slaves now are generally well treated. The increased price of a human creature in such a degraded state has had the good effect of introducing additional care, and of increasing the comforts of their life; and the ill treatment of a slave is now an exception to the general rule.

Slaves at the Cape may be divided into three classes: the Negro, the Malay, and the Africander. The Negro, who is the least valuable, was brought from Madagascar and Mosambique. These slaves are chiefly hewers and carriers of wood, and drawers of water, coolies, or public porters for hire, and also employed by the boers, and others, as the hardiest labourers of the field. The females are washing-women, and engaged in other employments requiring strength of limb and body. The Malay slaves are coachmen, tailors, painters, shoemakers, carpenters, and fishermen. In fact, they are usually engaged in every thing where what is called cleverness is required. The females are house-servants. This class of slaves requires the unremitted vigilance of the police; for a theft, or, indeed mischief of any kind, is rarely perpetrated without the participation, if not by the contrivance, of a Malay. Many Malays, by the œconomy of that money which they have these means of procuring, manage so as to purchase their freedom, and the number of free Malays is very considerable. The majority of them keep small subterranean stores throughout the town, in which iniquity, in all its shapes, is hatched into action.

The last and most valuable class of slaves is the African-born slave,—the produce of an European, or of a Cape Dutchman, and of a slave girl. So many years have passed away, since the Cape has been in the uninterrupted possession of the Dutch or English, that from black, this class has graduated into brown or yellow, not much darker than a Southern European, and many have progressed nearly to white. Of this race, both male and female, are the slaves preferred by the inhabitants. The men are active and subtle in mind, slender, and of good appearance in body. The females are rather under the middle size, with a bust inclined to fulness. They are well proportioned, and usually have teeth white as ivory, and eyes and hair black

as jet: they are smart, and fond of dress, in which they excel. Both sexes have much of the character of the Creole. These slaves are engaged in the domestic and most confidential services of the house, and frequently in a store or warehouse where goods are sold. The women are the favourite slaves of the mistress, arranging and keeping every thing in order, and are entrusted with all that is valuable,—more like companions than slaves: but the mistress rarely, and the slave never, forget their relative situations; and, however familiar in private, in the presence of another, due form prevails.

These three classes of slaves hold themselves separate and distinct. The Africander slave girl would consider herself disgraced by a connection with the Negro, or the production of a black infant; and the Malays are a sect holding both the others in contempt and horror.

Marriages are not permitted between slaves, or between a slave and a free person; nor is the practice of Christianity encouraged by the master, or any other of its commandments, except the 6th and 8th, taught to the slave, and perhaps those only, because they guard and protect the property and life of the master.

The conduct of the slave is not restrained by either moral or religious ties, and both sexes follow the natural impulse of their passions with African ardour. It would be as ridiculous as ineffectual to attempt to restrain slaves from that intercourse with each other, or with free people, which the better part of them consider to be binding, unless you propose to them the solemnization of marriage, which would be most acceptable. An inclination to marriage cannot be more clearly ascertained than the universal custom of calling each other man and vrouw, (in English, husband and wife,) and of the jealousy exhibited by each party so circumstanced, whenever any thing like preference is shown to another. The mischief and misery lay in the detestable system; for where little is sown, much cannot be reaped.

It must not, however, be concealed, that the fondness of the slave girls for Europeans is excessive; nor can it be denied, that their powers of seduction are such as to make the 4th ode of the 2d book of Horace, "Ad Xanthiam Phoceum," applicable to too many Englishmen.

Observant of the superiority of English manners over those of the generality of natives, and of the generous treat-

ment which almost every Englishman practises towards a female, they court their notice, and not unwillingly yield to solicitation. But here again is the effect of the system. A whole class cannot be expected to be chaste; and, as the marriage ceremony is denied, they follow in the path which to them appears the most like to it—the cohabitation with one man whom they prefer. It is to be remembered, that here there is, on their part, no breach of a marriage vow, which they are not permitted to take; no violation known to them of Christian principles and precepts; for, to the shame of their masters, these they have not been encouraged to learn; but it is a sexual preference for men who are affectionate and indulgent, over others whom they find to be comparatively harsh and unfeeling. The dislike of Englishmen to slavery; their expressions of disgust at its continuance; the frequency of buying freedom for their offspring by these girls, and often for the mother herself, together with the means they furnish for the purchase of fashionable dress, to which the slave girl is devoted, are circumstances which weigh upon the affections with irresistible force: but to state that their conduct arises from an innate disposition to vice, and that they do not eagerly cling to the hope, if possible, of being christened and married, is to be totally ignorant of their character.

A mistress undoubtedly is desirous of seeing the slave girl, attendant upon her person, neat and well dressed, which is the consequence of their connection with a free person. She is conscious, that the means are not furnished by herself, and perhaps is not discontented, considering it as the usual course of these connexions; but no mistress in any decent rank of life ever dressed her female slave for prostitution, as has been lately stated, or would knowingly suffer a promiscuous intercourse to take place, even though the girl was sufficiently abandoned to permit it. Whenever these connexions cease between parties, there is no hesitation in the adoption of another man; but it is dreadful to state this to be a copy of what is so constantly practised here by married persons, particularly men, under the law of separation.

It is much to be regretted, that so little appears to be attempted towards extending the Christian religion over the slave population of our colonies. All men agree in saying,

it would be beneficial both to the owner and the slave; and having so said, they do no more.

It is reported, that a former governor was desirous of having a cargo of prize slaves baptized as they landed, great and small, old and young; but, upon being asked by the clergyman, who disliked the proceeding, whether he would undertake the office of general godfather, that being a necessary part of the ceremony, it was declined.

The missionaries, of whom there are numerous and excellent establishments here, appear to lean chiefly towards the instruction of the Hottentots. The Africander slave, however, abounds in quickness of comprehension, and, if permitted by the owner to receive instruction, would afford an ample harvest of improvement to the cultivator. Many of the Cape-Dutch proprietors have stubborn objections to the encouragement of Christianity; but that is not universal; and the slaves themselves, except the very lowest class, both male and female, are desirous to learn, and anxious to attend the church. The more regular conduct of the few who do so, and the abandonment of an old erroneous idea that a slave becoming Christian, becomes also free, will, it is to be hoped, tend to diminish the prejudice.

When a slave is made free, the very first thing done by the individual, unless predisposed to Mahometanism, (too frequently the case,) is to endeavour to learn as much as will give a title to be christened; possibly not at first from religious motives, but as being a higher cast in society. The bearing the name of a Christian, however, leads, in many respects, to act as Christians do: to contract marriage; to have their children baptized; and to attend at church. Habits of regularity arise, the mind is brought into a state to receive religious instructions, and though it is not to be supposed that an untaught slave can become a Christian by merely going into a church, yet it is a certain truth, that no one long continues to be a Christian, more than in name, who habitually absents himself from public devotion, and the ordinances of the church.

The marriages of enfranchised slave girls frequently take place. The 60th regiment, partly Germans, talking the Cape-Dutch language, were lately disembodied; and the tradesmen and artificers felt inclined to settle at the Cape: they required a small house or apartments, a little furni-

ture, and a few comforts, all of which the girls possessed: the girls wanted husbands, in order to become honest women; and both parties were accommodated, with considerable improvement to their conduct and morals.

There are a few free schools where slaves are taught to read and write on the plan of Dr. Bell; but the number who attend are said not to exceed three or four hundred. Some pious individuals, male and female, give Christian instruction to slaves, both children and adults, and it is to be hoped that the practice may increase. It is mere justice to departed worth, to mention the name of widow Smith, who was for many years zealously engaged in instructing the slaves in the Christian religion. She has lately been removed to a better world, there to enjoy that happiness for which she was so fully prepared, by a long continued course of fervent piety and unwearied benevolence.

Of all the colonies belonging to England, there is not one where (what may be called) an experiment of emancipation could be so safely made as at the Cape of Good Hope.

There are no indigo, coffee, cotton, or sugar plantations to be made desolate by labour suddenly withdrawn. It would be a comfort to humanity, to view the extinction of slavery, even at a distance. Those who have leisure and talents for the subject may consider the degree of danger which could arise from declaring all female slave-children born after January, 1824, to be free at eighteen, with the power in the owner to dispose of the term by sale, as he now does of the slave for life; that on the children's attainment of five years of age, one hundred rix-dollars should be paid by government to the owner, as a remuneration for the past support; the future service till eighteen, an age when they will be able to take care of themselves, being considered as sufficient for the remainder. To accomplish this, slavery may for once become the means of freedom, as an annual tax of two rix-dollars on male slaves, and one rix-dollar on women and children, would form an adequate fund for the purpose.

The number of female slave children born in 1820 amounts to 504; and so small a number of female infants, greatly to be reduced by death, declared at their birth to be free at 18 years of age, could not be felt. Tedious and prolonged as the process would be, such is the revolution of time, that in a distant period all women would be free; and as free mothers

bring forth free children, slavery would expire in a gradual, imperceptible manner, without violence or pecuniary distress to individuals. It must not, however, be disguised that the mere making these girls free will not be sufficient without affording also the means of religious instruction. Without that it may be feared, they would fall into habits more loose from the circumstance of being unrestrained, as well as uninstructed. There must be religious principles; but surely the establishment of public schools by government enforcing daily attendance for a certain number of hours, would not be difficult.

It is desirable, that those who have leisure and inclination, should trace out and enlarge on this or on some better plan, in its consequences so important to humanity. To what is here offered, there may be doubtless many objections. One prominent one is the apparent injustice of excluding the males at eighteen years from emancipation during the first period, and bestowing it only on females; but the intention is, that these girls should be the (stirps), root of emancipation, and from them is to spring the freedom of the slave posterity.

The entire system is such a mountain of injustice and misery, that it may be necessary to submit to the temporary addition of one particle more, in order that good may follow (objectionable as is the principle) in such a case as the final abolition of slavery.

The public or private sale of slaves of good character rarely takes place, except by the distress or insolvency of the owners, and by the orphan chamber, or other executors, on a distribution of the property of a deceased person; and when it does in a family where kindness has prevailed, the scene of woe is dreadful.

Whenever it becomes necessary for an individual to sell a slave, permission is never refused to the slave to select the purchaser, which is usually done without difficulty; and, on a sale occasioned by death, the children or relatives either share or buy the slaves of the family; so that in fact there is less distressful alteration in this species of property (for so it must be called) than could be expected.

The annual manumission of slaves chiefly consists of girls who have borne children to free men, and specially to their owners, in which latter case the statutes of India declare them to be free; and of family slaves emancipated by

the will or at the point of death of the owner. Charity is said to cover a multitude of sins, and it is much to be wished that the Cape-Dutch would, in contemplation of death, consider the emancipation of slaves as the highest species of charity, and take the expression of "covering a multitude of sins" in the literal sense of the words. This single benefit must be allowed to arise from slave population, that every one is compelled by law to take care of an aged or infirm slave; and the young and healthy are too fully employed, and too carefully watched by their owners or employers, to have the opportunity of following the disgraceful example of European mendicity.

In this department there is an inspector, an assistant inspector, and clerks, all of whom are appointed and removable by the colonial government.

SECTION VI.

Government Slave Lodge.

THIS establishment for the slaves of government is within the walls of the menagerie in the public gardens. The buildings are airy, and well adapted for the purpose. The number of slaves amounts to about 200 of different ages. To the adults the allowance is one pound of meat, one pound of bread, and half a pound of rice per day; a sufficiency of clothing twice in the year, and one Cape rix-dollar per month (1*s.* 6*d.*) for tobacco money. Half of the same allowance, without the rix-dollar per month, to children. They leave the lodge in summer at five in the morning, and return finally from work to their quarters at six in the evening; being allowed one hour at breakfast, and two for their dinner in the lodge. There is a school for the children, where they are instructed in reading, writing, &c. and they make fair proficiency, according to their age. Of late years there has not been much increase or decrease in the number of slaves, who are all considered to be in the employ of government.

Every thing appears to be conducted in the manner best suited for comfort and conveniency, and for the improvement of the children.

After the abhorrence which Parliament has so frequently

expressed of the continuation of slavery in all its forms, it may be regretted that an institution of the kind is permitted to exist at the Cape, under the protection of its government, and that it should be continued on its present footing.

The advantage of labour to government is trifling, and the work done is no adequate compensation to the colony for the food and expense. A few labourers paid for the purpose would do more in a day, than the idle though orderly habits of these men and women incline them to do in a week. It would be unfeeling to the slaves now existing in the lodge to do away the establishment, and altering their nature to turn them upon the world to earn a subsistence by industry; but every child under the age of fourteen, and all hereafter born, should be instantly emancipated.

There can be no apprehension of any want of care for the present or future children, as the parents would remain in the lodge during their own lives.

In this manner slavery at the government lodge would gradually expire, and there would arise a number of free, active and useful servants to be hired by the government or the public, in the place of a dispirited and comparatively unwilling slave lodge population. Government would also show a bright example, the effect of which might greatly serve to prove to unbelievers the superiority of free labour over all that can be done by the tame efforts of slavery.

There is a director of the lodge, and a surgeon, both of whom are paid and removable by the colonial government.

CHAPTER V.

OFFICE OF INLAND CUSTOMS—INSPECTOR OF GOVERNMENT LANDS AND WOODS—RECEIVER-GENERAL—COLONIAL PAY-MASTER—STAMP-OFFICE—POST-OFFICE—OFFICE OF LAND REVENUE—SIMON'S-TOWN.

SECTION I.

Office of Inland Customs.

THE collector of inland customs has constant duty to perform. He receives daily what was called tithes, on wine, corn, and other articles brought into the Cape market. In fact, these duties were in the nature of tithes, being originally a dixme, or one-tenth, of the value of the article; but the increase in the price of every thing of late years has brought the tithe to a modus, and a load of wheat, at this date worth three hundred and seventy rix-dollars, pays only three rix-dollars, six schellings; and a legger of wine, worth fifty rix-dollars, pays three rix-dollars also. The modus, however, may be called fixed, as wine a few years since at the price of one hundred and eighty rix-dollars per legger, paid no more, and wheat, then at ninety rix-dollars per load of ten muids, paid no less. It would be more satisfactory, and surely more equitable, that the duty should vary with the value of the article.

The government tax, called the heere regt, (Anglicè, the lord's right,) is payable at this office by the purchaser of any real property, and a certificate that it has been paid, must be produced at the colonial office, before the transfer or title can be passed by the commissioners of the court of justice, and by the colonial secretary.

The tax of 4 per cent. on quit-rent tenures is a heavy charge where property so frequently changes hands from a variety of causes as it here does; and inevitably, at the death of almost every Cape-Dutch inhabitant, burgher, or boer, owing to the law of a divided inheritance, which brings on a sale.

Within the course of the last five years, several houses in Cape Town have paid this tax four or five times; so that, in a no large circle of events, the whole value of the colonial landed property is realized also to government. The loan or leasehold tenure pays 2½ per cent. on alienation; but all will soon merge into annual perpetual quit-rent, paying 4 per cent. on every change of owner.

There are a collector, three clerks and assistants; all of whom are paid by the colonial government, and removable at pleasure.

SECTION II.

Inspector of Government Lands and Woods.

The inspector of government lands and woods is called upon to acquire accurate information of the quality and capability of the lands and woods in each drostdy, when they become objects of the grants of government to individuals. He is to examine into the propriety of the grants themselves, recommended by the landdrost, whether there are any and what objections from individual neighbours, or upon public grounds. He decides on the fairness of the quit-rent proposed, so as not to press too heavily on the individual, nor too lightly for the public revenue, and to see also that it be in proportion to the payments of others.

The inspector becomes the fair arbiter between private and public claims, and is an important officer where there is an increasing population, and a considerable proportion of the colonial domain still open to grants. The destinies of some thousand settlers and boers hang, in a great degree, upon the report of the inspector of woods and lands. It is not in his province, however, to make grants of industry, of sobriety, and of agricultural skill, or to check the ravages of blight and drought; so that much remains to be done by the owner and by nature, when the grant of land is completed.

It will be acknowledged, that the inspector of lands has an unthankful task to perform. It is his frequent duty to set aside the recommendations of the landdrost and heemraden of the drostdys, possibly made through favour to an individual, or through ignorance of relative circumstances. He has to satisfy the grantee, that the perpetual quit-rent

is not too high, and the government (the grantor) by his report, that it is not too low.

This public officer passes his life amongst conflicting interests, and the disappointed boers on all sides charge every inspector as a blockhead, (though fortunately he does not hear them,) and with "knowing nothing about the matter;" indeed, how should he, "poor ignorant man, for he comes from England, and it is quite different from the Cape."

This officer, of such constant labour both of head and pen, is appointed and paid by the colonial government. He is allowed one clerk, and both are removable at pleasure.

The office of translator to government is held by the inspector with a view of creating for him a better salary by the union of the two offices. This custom has been censured in former pages. Why should not the labourer be paid his fair hire? The public complains not of those who work and receive pay, but of those who receive pay, and do no work.

SECTION III.

The Receiver-General.

The receipts of every department of government, whether of customs, taxes, or revenue, are paid monthly to the receiver-general, after having been previously compared with the vouchers and documents by the auditor-general of the colony, and duly passed and approved by him.

From this office no money can be issued, nor any payment made, but under the authority and responsibility of the government by warrant.

The receiver-general exchanges with the public the defaced or worn out paper rix-dollars; and on his representation, a quantity of rix-dollars, equal in amount, (vide Proclamation, Appendix, D.) are issued, representing those which are defaced, and which are sentenced to be burnt in the presence of certain public officers.

The receiver-general is a colonial appointment, paid by government; and with his two clerks removable at pleasure.

SECTION IV.

The Colonial Pay-Master.

THE duty of the colonial pay-master is not to be classed amongst the most laborious. His toil appears to be, to make himself acquainted with the average rate of exchange, and to calculate the amount of rix-dollars payable each quarter day to those servants of the public who are paid in sterling. He also distributes the pay of the Cape corps, which he remits to their station on the Kaffer frontier. These sums he gets by warrant from the receiver-general, nor can he have any rix-dollars remaining in his hands, except the lagging salaries of those civilians who, for some reason, happen not to receive them when due; but this is considered as a circumstance very rarely occurring at the Cape.

The colonial pay-master is allowed a clerk to assist him through his fatigue, which brings to remembrance the old story: "What are you doing, John?—Nothing!—What is Harry doing?—Helping me!"

The office of colonial pay-master, though not the school of industry, may be held sacred, as having been a retirement for wit and genius. In this office, Mr. Thomas Sheridan, in spirit and fancy inferior only to his father, passed the two last years of his life. His social and intellectual qualities, notwithstanding the decline of health, gladdened the heart, and were the ornament and delight of a small circle of friends, in whose memory he will never cease to live.

The colonial pay-master is a treasury appointment.

SECTION V.

Stamp-Office.

A REVENUE raised by means of a stamp is collected with such facility, that it is encouraged by all governments. It appears to be the simplest and the least oppressive of all taxes; yet, in the last instance, it is the reverse. It grows with the growth, and strengthens with the strength of every state. The operation at the Cape commences before birth, accompanies a man through life, nor departs at death. It

is the old man of the sea, in the Arabian Nights' Entertainments, who, clinging to your back, can never be shaken off. Mark the progress of stamps at the Cape, how unwearied in their operation! A stamp of 200 rix-dollars places a couple in a situation honestly to give birth to an infant; and no objection is made to the payment, being the means of attaining so much pleasure and happiness. When a child is born, the register on a stamp attests the circumstance; and who can think about the expense of a stamp on such a joyful occasion? Then, as life advances, a stamp is wanted for the receipt of your portion of the property you inherit. If you vest your inheritance, another stamp is required. An inventory also is necessary, and so is another stamp. Your memorial for any appointment in the colony requires a stamp; and the appointment requires another stamp. Your petition for a grant of land must be on a stamp; and it is granted on a stamp. You become sick, and the physician recommends the warm baths at Caledon; a stamp is required to allow you to go. There is good shooting for your amusement there; but not without a stamp. A wife is repudiated on a stamp; and a bond for her maintenance is given on a stamp. A last will and testament is made on a stamp; the certificate of death is on a stamp; and the transfer of a few feet of churchyard ground for burial is on a stamp: and thus before birth till after death, this simplest of all taxes adheres.

The sum of money collected into the treasury by this tax is very considerable, and in the present state of the colony any abatement of taxes appears to be impracticable; but it must be kept in memory, that the stamp act assisted in separating America from Great Britain.

This productive and easy branch of revenue is managed by the commissioner of stamps and one clerk, who distributes also to the drostdys.

The receipts of the stamp-office are paid into the colonial treasury by the commissioner, after deducting his own per centage. This is a blamable exception to a general colonial rule, that all profits should be paid into the treasury, and the disbursement discharged by a distinct warrant, upon the principle of ascertaining correctly the actual produce of a department, and the expense of its maintenance.

The commissioner is appointed by the colonial government, as is the clerk, both holding their offices at pleasure.

SECTION VI.

Post-Office.

The growth of colonial population, and the location of the settlers on the eastern frontier, together with the necessity of keeping up a constant correspondence with the military near Kafferland, has increased the receipts and duties of this office.

The act of the 55th of the late King, cap. 153. called the Packet Act, but more properly termed by some, "An Act for preventing the Correspondence of Parents and their Children, in the Cape and East Indies," gave a temporary check to the correspondence of the Cape, by tripling the price of postage, and lengthening the period of receiving a letter. The voyage from England to the Cape may be estimated, in the common way, at an average of seventy days; but, by the appointment of the packet, it grew to nearly four months. The reader may remember the traveller who, seeing a boy fast asleep on the turf and his horse quietly grazing, inquired who he was, and was told, he was the "express."

The judicious repeal of the act placed letter-writing on its old footing, and the post-office produces a revenue to the colonial government without pressure on the parties. The rate of postage cannot be brought to realize any thing considerable, without checking correspondence and communication, just beginning to dawn in the Dutch population.

The post goes weekly, with great regularity, to the different parts of the interior, and returns with equal despatch. The one to Graham's Town (eastward), leaves the Cape on Saturday morning, and arrives on the eighth day, a space of near 600 miles, unless prevented by the swelling of rivers, or some other unusual impediment. That to Graaff Reynet arrives in seven days, being a distance of about 500 miles. Another post goes coastwise to the westward; and there are also three weekly posts to Simon's Town, and one to Stellenbosch.

Other mails branch off from these lines as required; and government is active in giving every practicable facility to colonial letter-writing.

There is a postmaster, a chief clerk, and a proper esta-

blishment of letter-carriers, whose official attendance is constant, and frequently at very irregular hours.

All are paid and removable by the colonial government.

During the tyranny of the post-office packet act, the postmaster received English pay; and the repeal, which relieved the foreign world, presses hard on this single individual.

SECTION VII.

Office of Land Revenue.

The chief duty of this department consists in collecting all revenues arising from lands, whether from leases of government farms and salt-pans, or lands occupied in freehold, on loan or perpetual quit-rent, and on quit-rent for fifteen years. The farms in each district are separately entered and alphabetically arranged; and in the event of sale or disposal of a farm, the name of the new holder is immediately entered in the books.

This office is an important branch of the revenue department, and appears to be conducted with great attention and regularity.

The amount of revenue received is paid monthly into the treasury, with a list of those who have discharged their rent, which list is also transmitted to the magistrates of the drostdy where the property lies, for their information; and at the end of each year, lists of arrears of rent due by the different landholders are regularly forwarded to government.

The duties of this office are become more important, by the general measure of granting lands on perpetual quit-rent, materially adding to the government land revenue, already of considerable importance, and increasing in proportion to the additional grants; but the various government payments, collected at the Cape market, on all produce from the country, weigh so heavy on the boer, that the annual quit-rent, however light it may appear, is felt so oppressive as almost to overwhelm the payer.

There is in this office a receiver-general, an assistant receiver, a clerk, and a messenger, whose name, by an extraordinary concord, or as Dr. Square, in Tom Jones, would say, "by the eternal fitness of things," happens to be Samuel Fagg.

They are appointed and removable by the colonial government.

SECTION VII.

Simon's Town.

This town and bay, the station of the admiral and navy, and in time of war animated by the gay and ardent spirit of naval officers, is now the abode of dulness. The road from the Cape to Simon's Town is interesting, lying through Rondebosch, Wynberg, and over a heath fast improving in cultivation, to Muizenburgh. From that place to the bay, it skirts the foot of lofty mountains, overhanging the traveller on his right hand, whilst the ocean rolls majestically, through the bay, on his left. The scene is so picturesque and beautiful, that it cannot be past for the first time without feelings of delight.

Simon's Town has one long street, with irregular houses, white, with green windows and doors, as is usual with most of the Cape houses, and it has a neat appearance. A church, barracks, naval hospital, houses for the officers of the naval department, a mansion for the commissioner, commanding a beautiful view over False Bay, a building for the resident police magistrate, and a house for the commandant, are, together with a custom house, the public buildings of Simon's Town; but houses unoccupied, or inhabited only in part, as the naval houses are, contribute to the solitary appearance of the place.

The commandant is now resident also, and unites the power of the civil and military.

Simon's Bay being in the Cape district, the jurisdiction of the fiscal extends over it, and is exercised on any occurrence of magnitude.

The commandant, the clergyman, a few officers belonging to the navy, and the troops stationed in the barracks, the collector of customs, the harbour-master, and three or four gentlemen of the naval department, form, with one or two inhabitants, the whole society of Simon's Town. There is not even a parish doctor nor a lawyer, as in an English village: the one of whom by attacking the constitution, and the other the pocket, cause some variety in the scene.

From April to October, during the north-west monsoon, Simon's Bay becomes the resort of ships going to, or

returning from the eastward; but merely putting in to refresh. On these occasions, Simon's Town is more frequented, especially when the ships of the East India Company are in port. Passengers land, and hasten to the amusements of Cape Town, as fast as possible; whilst the Cape inhabitants are going down to the Bay to purchase goods, or to endeavour to smuggle them, and to get passages to England or India.

The inns are execrable, and without decent and proper accommodation for visitors; and every thing which is food for man or horse, is extremely expensive, and difficult to be got at any price. To call it extortion would be incorrect, because that which is purchased at a dear rate by one, cannot be supplied at a cheap rate to another; and every thing is brought by land-carriage, from distant districts, or from Cape Town, "water excepted."

The country in and about Simon's Bay, is sand or mountain, denying the pleasures of riding or walking, without equal inconveniency. The single resource is, parading the street at the edge of the bay, where the eight or ten people, before mentioned, daily lounge, to observe whether the Roman Rock and Noah's Ark rest on the same spot in the bay on which they rested the day before, till the happy hour arrives, when, in the comforts of a dinner, they can take refuge from the ennui of the eternal "How do you do?" repeated over and over again, to the same persons, during the morning. There is one occasional resource to be noticed. It usually happens, as in all small societies, that amongst the eight or ten, there are two or three at variance, on account of some "hearsay" or other; and the vice versa relations of each party, to interest the others in their favour, create a little interesting lively venom amongst the whole, as long as the matter lasts; which can be only for a short time, until mutual explanation, or oblivion, has brought all again into harmony. The only thing which can much gratify a stranger, who visits Simon's Town, except the leaving it, is a ride, by the mountains, to the real Cape Point.

From Table Bay to Simon's Bay, the voyage is usually called forty-eight hours; yet such may be the difficulty of weathering this point of land, that vessels have been more than a month on their passage.

The naval establishment was formerly fixed at Cape

Town, and a party of workmen were then sent in the winter season over to Simon's Bay. The commissioner of that day, a gallant officer, and an able and indefatigable servant of the King, who feared nothing, except that a mere zephyr from the north might drive his majesty's ships on shore in Table Bay, prevailed on the admiralty to remove the whole establishment to Simon's Town, where a very heavy expense was immediately incurred by purchasing and building houses and stores for the department, every thing at the Cape being abandoned.

The naval yard is upon a considerable scale, and adapted to refit men of war of any rate, but there are no wet or dry docks. In the year 1800, Sir Roger Curtis ordered the Jupiter, of 50 guns, to be hove down in Simon's Bay, which was done with such success, that since that time there has been no apprehension on the subject.

The Raisonable, of 64 guns, the Revolutionaire, and the largest Indiamen, with many others, have been hove down since, without risk of the slightest accident, and as safely, though probably not quite so expeditiously, as in a dock.

All the officers and artificers of the naval establishment are expected to reside at Simon's Town. The commissioner himself, after directing the removal, escaped the fate that Phalaris imposed on Perillus, that of being shut up in his own bull, only by sudden promotion to a dock-yard in England, leaving to his successor the inheritance of a wearisome, monotonous residence at Simon's Town.

This bay, though it is hardly justice to call it so, being more of a harbour than bays usually are, lies at the bottom of False Bay, and is safe and secure at all seasons.

There are three well-known rocks in the bay: the Whittle or Trident Rock, so called from the Trident striking on it, (for misfortune gives a name,) lies nearly in the middle of the Great False Bay, and answers to the bearings as laid down in all the new charts, and has a beacon on it. The Roman Rock, and Noah's Ark, off Simon's Town, are always above water, and between them is the usual passage, in and out, when the wind is fair.

There are two batteries commanding the anchorage; but in order that a stranger may form a more correct idea of Simon's Bay, it may be compared to a bow, with a line extended from the north to the south battery. These batteries could throw shells, if not shot, across from battery

to battery. In the months of March and October, 1807, Sir Robert Stopford and Admiral Stirling lay here with fifty-three sail of men of war and transports, all within the string of the bow, and, of course, land locked. Mr. Barrow is not considered as being well informed about Simon's Bay.

The expense of victualling ships at Simon's Town may be computed at one-third more than in Table Bay. Provisions of every description, whether for mere necessary supply, or for indulgence, must be carried in waggons from Cape Town, and many articles by the labour of coolies; both waggons and roads being of a roughness destructive of what is not solid. A legger of wine, which may now be put on board a vessel in Table Bay for 100 rix-dollars, will, by carriage and other expenses, be increased to near 150 rix-dollars in Simon's Town; and every thing of bulk in proportion. This operates as a great disadvantage in the contracts for the supplies to the navy, making a heavy addition to the victualling expenses of ships of war, compared to the former contracts in Cape Town.

Few merchant ships go into Simon's Bay to trade; and the tonnage, in the year 1821, amounted only to fifteen thousand ton.

The revenue of customs is very inconsiderable, and not much more than sufficient to pay the expenses of the establishment. A custom-house, under the circumstances of a port, whence almost every thing landed must be sent for sale, by land-carriage, to Cape Town, holds out little encouragement to importers; and whenever a cargo has been landed, from any unusual causes, of such magnitude as to make it necessary to freight a ship with it to Cape Town, this latter freight nearly equals the original one. Government must regard the custom-house at Simon's Town, as a post necessary to prevent smuggling, but not to produce revenue.

The public functionaries are, a commandant, a resident civil officer, harbour-master, collector and comptroller of customs, and a chaplain, who, besides occasional duty, does church duty once on a Sunday.

The communication, by telegraph, between Cape Town and Simon's Town is instant. The arrival and departure of ships is immediately made known to each place, together with every occurrence necessary to be communicated to government at the Cape, or from it, to the commandant at Simon's Town.

CHAPTER VI.

AGRICULTURE — VINEYARDS — FISHERIES — PRODUCE — COMMERCE — CUSTOMS — PORT-OFFICE AND WHARF-MASTER.

SECTION I.

Agriculture.

An individual unacquainted with the actual resources of the colony, upon a view of its situation, would consider it to be a favoured spot for agriculture, internal trade, and foreign commerce. Placed in the temperate zone, enjoying a most delicious climate, it might be presumed that the earth poured forth her produce with an unsparing hand, and that the activity of man would distribute it so as to furnish an abundant supply through the whole colony.

The Cape of Good Hope is in 34° 22′ of south latitude, and 18° 23′ 2″ east longitude. The Cape colony, comprehending a space of about 120,000 square miles, offers Cape Town as a midway station between Europe and the East Indies. One month's sail from the Brazils and Buenos Ayres, less from Mauritius, Bourbon, Madagascar, Mosambique, and the eastern parts of Africa, it appears to be in possession of the choicest site for the trade of the eastern and western world. But there are circumstances and restrictions, which, until remedied, seem to set at a distance, if not wholly to disappoint, such expectations. With regard to agriculture, it must be acknowledged that improvement has taken place of late years. The beneficial effects of English ploughs, acting with more force, and better effect, in the breaking up of hard land for wheat, are undeniable: yet the native corn boer unwillingly acknowledges the preference, and reluctantly adopts any foreign plan. It must in fairness be allowed, that when the season has been kind, there appears at the time of harvest little or no difference in the English or Dutch crops. The Cape-Dutch boer more than equalizes the disadvantage of his implements, by superior knowledge of the nature and pro-

perties of the soil, by a better experience of the variation of the climate and seasons, by an unabated industry, constant sobriety, and by attention never abstracted from the concerns of his farm. His time and his mind are rarely given up to the pleasures of any society but that of his family; nor does he allow any thing to intrude, which may divert him from the improvement of his property.

Great surprize is expressed in various publications at what is termed the negligence or idleness of the Capé boer, in not inclosing land. The quince tree of the Cape, and various other shrubs, are mentioned as being at hand, and well adapted to the purpose.

These remarks are not the result of accurate observation. The quince, in particular, requires moisture, and although it is a protection for small inclosures or gardens, near dwelling-houses, it sickens, withers and dies in the uplands. There exists an objection to inclosures, almost as great as the difficulty of forming them, which is, that they would be useless on Cape farms. It is to be presumed, that the greatest extent of the inclosures would not be more than fifty acres, (for in England that is a large inclosure); but is it expected that inclosed land in South Africa would produce the turf of Leicestershire, Warwickshire, or of the grazing counties of England, with the usual pond or pit of water in one or in each corner? The food for cattle on such a quantity of inclosed land would be wild shrubs, bushes and heaths of various descriptions, upon which a dozen cows might browze, possibly, for one or two days, without being starved, provided they were not themselves devoured by the wolf, the panther, or the jackall: but it would require the Rod of Moses to procure water from the rock; for under natural causes there would not, except in particular spots, be a drop from the month of November till April. Travellers usually remark, that the herdsman and shepherd of every country adopt measures best suited to the cattle. Oxen, sheep, and goats, in South Africa, accompanied by their guides, wander daily in different directions over large tracts of land, on a farm of 6,000 acres, from sun-rise to sun-set, in order to fill themselves with the soft and succulent tops of the proteas, and of other bushes and of heaths, and of such scanty herbage as they can pick up, and in the course of every day they must be driven at least twice to water, and frequently a very great distance. At sun-set

they return home, and are lodged in separate closed pens, or *kraals*, in order to protect them from the wild beasts of the field; and at sun-rise their daily wandering re-commences.

From this statement, a fair judgment may be formed of the inutility of general inclosures for cattle and sheep, and of its fallacy, if recommended as an improvement in African farming, the whole system of which, as far as relates to raising and feeding cattle, rests on a treatment directly contrary to that of England, and pointed out by the state and nature of the food and of the country.

The Cape-Dutch have been accused of neglecting the cultivation of various produce, for which it is said the warm climate of the Cape is adapted. It cannot reasonably be doubted, looking at their unwearied disposition to acquire wealth, but that were there any chance of success in the growth of cotton, sugar, indigo, coffee, tobacco, and rice, so industrious and patient a people would have persevered, particularly as there could then have been no deficiency of slaves, Madagascar and Mosambique being almost at their door. A small quantity of rice and tobacco of good quality is produced in distant parts of the colony; but there does not appear to be encouragement sufficient to increase the growth, though possibly the endeavour has not been accompanied by enterprize and capital.

The corn boer confines himself to the growth of grain, and the breeding of horses and a few cattle. The average return of wheat through the colony, according to the best opinions, is ten for one. Barley so called (though really beer or big) yields forty for one, and oats the same. On the very best corn land, a return of fifteen for one takes place, and of barley and oats fifty. The climate will bring one crop only of grain * to maturity within the year. The month of April is the seed-time for oats and rye, May for barley, and June for wheat: but these different species of grain may, from forward or late rains, be sown or ripen two or three weeks sooner or later. Strong showers, commencing early in April, ought to continue with short intervals till July; when, if the season be favourable, constant rains follow till October. Such a state of the elements

* Besides the winter crop, to which this remark is confined, there is a summer crop of Indian corn, &c.—Ed.

secures the oat and barley crop; but it is on heavy showers late in October and November that the wheat crop depends. If these fail when the wheat blossoms and goes into ear, the plant withers and declines, and the expectations of the corn boer are disappointed. This of late has occurred at such short intervals, as frequently to render the supply of wheat bread insufficient to give abundance to the population.

In October and November, 1821, the rain did not fall seasonably, nor in sufficient quantity; and the wheat, having, for the first time, in the year 1820 partially suffered under a new disorder called the roest, so named from its colour of rusty iron, has been now so generally infected, that one half of the annual produce cannot be expected. The roest begins after fogs and damp, succeeded by a hot sun. A fungus adheres to the bottom of the stem,* which, stopping the circulation of the juices required for the nourishment of the plant, disables it from feeding the ear sufficiently to produce a proper grain, which, if previously formed, is small, and without the usual quantity of farina. The bearded wheat has been observed to be most subject to the roest; oats and barley, which do not suffer so much from it, are harvested in November; wheat late in December. Both are stacked at the edge of the floor, where the grain is trod out by the mares belonging to the farm, and housed previous to the commencement of the rains in April.

Until the English possession, very few oats were grown in the colony: barley, with chaff from wheat, being used wholly for the food of horses: but now a very considerable spread of oats is sown for hay and for threshing. Before the oat ripens so as to fall from the ear, the plant is cut down, and the swarth dried as in England: and this hay is very superior for food, to what is grown there. To the use of it, in the place of soft meadow hay, is ascribed the circumstance of a broken-winded horse being of late years almost unknown.

The weight of Cape grain is believed to be greater than that of any known place, except Tarragona, and some few

* The fungus (if fungus it be) is not confined to the bottom of the stem. It is formed under the epidermis of the culm, bursts through it, and scatters a rust-coloured dust.—Ed.

parts in the Mediterranean. One bushel of the very best Cape wheat will weigh 80lbs. English; barley 60lbs.; oats 40lbs. The average weight of the colony may be about 10lbs. less in wheat and barley, and 5lbs. in oats.

Wheat of the best quality is grown chiefly in Coeburg, Groenekloof, Tulbagh, Four-and-twenty Rivers, Roodzand, and Boshesveld. That grown in Tygerberg, Swartland, or elsewhere, is not of a superior quality.

The course of husbandry, where strong unclean land abounds, is to break it up in August, and to let it lie till showers take place in March, and then to harrow it. The bushes, which have been torn up, must be burnt, the ashes spread, and the wheat ploughed in at sowing time. If a strong crop is reaped the first year, the same land may be again ploughed and sown with wheat a second time, and even a third; so great is the force of the gritty red clay, which is the best wheat land. Care must be taken to plough a little deeper each successive year, so as to turn up a portion of new soil to mingle with that which has been pulverized in the former crops. After this third crop, the land should be manured for barley or oats, if it is wanted for a succession crop; if not, the land may remain untouched for a year or two, and it will then be again in a state to be ploughed. Oats and barley, if sown on new land, or on land of good quality, require no manure for the first sowing; but on the sandy soils in the vicinity of Cape Town, or elsewhere, manure is absolutely necessary for a crop of barley or oats, or even oat hay.

Turnips have lately been attempted by two or three English farmers, and are said to do well, particularly in the farms at the Groenekloof.

There is very little attention paid to sheep in the farms on the Cape side of the mountains, which includes the country from Hanglip, in False Bay, to the mouth of the Berg River, in St. Helena Bay; and although the Spanish breed has been introduced and encouraged at the government farm at Groote Post, and the public supplied with Merino rams at fair and moderate prices, yet in general the Cape sheep is preferred by the butcher for its ready sale; and by the cook, on account of its tail, so useful for culinary purposes: this frequently weighs six pounds, and is composed wholly of fat.

The great supply of sheep consumed in Cape Town and

its neighbourhood is from the distant country, for the farmers on the Cape side of the mountains do not breed a sufficiency for their own families, buying their supply chiefly from the numerous flocks driven down by the Hottentots for the butchers of Cape Town.

A Cape sheep, even in these times of increased population, is sold for about seven shillings sterling; and if it be fat, weighs, on an average, about 45lbs. without the offal.* There is no shearing of the native Cape sheep, the wool not repaying the labour.

On the farms where attention is paid to Merino flocks, the wool is of value and importance, and every necessary care is bestowed on the shearing and washing. The quality is excellent, and the price on the spot is now about two English shillings per pound. The whole of it was exported to England, to the amount of about 20,000lbs. during the year 1821.

It is a severe reflection on the colonists, that they have not exerted themselves to increase the Merino flocks throughout the vast grazing countries to the northward and eastward. The example of New South Wales is before them, and there is no doubt but that, in the mountainous and grassy countries of the Cape, a sufficiency of wool might be grown to give an export inferior in value only to wine. Great Britain, it is to be hoped, would take off the duty of sixpence per pound on Cape wool, for the Cape colony requires favour and indulgence, before it can be placed in a proper attitude.

There are about twenty Merino flocks in the colony, making a total of about 8,000 sheep, yielding each from two to three pounds and a half of wool. The time of shearing is from October to November. The ewes bring lambs chiefly in March. In these parts, they rarely pro-

* A Cape sheep killed by George Muller, butcher, 9d February, 1822, four years old, stall fed, weighed 160lbs. Dutch weight, alive, or 174lbs. English.

		lbs.
When dead,	Meat	93
	Tail	10
	Inside fat	15
	Head, skin, and offal	42
		160lbs. Dutch.

duce more than one lamb; but far in the interior, they have two; and in some places lamb twice in the year. The carcase of a two-year-old Merino sheep will weigh 40lbs. Dutch; three years old 50lbs.; four years old 60lbs.

The goats abound in every part of the colony. They are of a large size when castrated, and are the food of the slaves. They live and do well on any pasture, or almost on what appears to be bare ground; and every farm has a considerable number. Their docility and their attachment to the place to which they belong, make them useful, by keeping the sheep from wandering or straying when frightened, or scared by dogs; and every flock of sheep is accompanied by an allotment of goats; a proportion of which is always required by every Hottentot who drives sheep down from far countries, to head the flocks in their long journey.

The quality of the milch cow has been much improved by the introduction of the Dutch Friesland, or, as it is here called, the Fatherland breed. The native Cape cow is unquiet at the pail, gives little milk, nor even that little unless the calf is first allowed to suck.

The butter, of which a very large quantity is made in the interior, and brought to the Cape by waggons and coasters in large tubs and barrels, is of good quality. It is churned from the whole milk, not from the cream only, as in England, and its usual price is about sevenpence sterling per pound. Very little cheese is made, and that little, almost without exception, execrable.

The oxen, without whose services the boer is at a complete stand-still, are large handsome animals; and if fattened, as they are in Europe, would by no means yield to them in size or beauty. Of these, every boer, having a farm of usual extent, possesses many yokes; but in most farms they require change of pasture for a few months every year, without which they become *lamziek* (*lame-sick*), or paralytic in all their limbs, said to be occasioned by the prevalence of saltpetre, effloresceing from the earth at particular seasons. In this disease they lie down, to rise no more. Oxen are also subject to other fatal disorders, especially strangury.

Saldanha Bay, to which many are driven, is called the doctor; and the feeding there restores them to plumpness and health. Others send them over the berg, or mountains, beyond the peninsula; but all oxen, after the season of

ploughing and sowing, which reduces them very low in flesh, require a long term of rest to recruit and prepare for the fresh labour of drawing the grain or wine to Cape Town. The value of a good *span*, or team of twelve young seasoned draught oxen, is from 5 to 600 rix-dollars, or about three guineas sterling per ox.

An ox fit for slaughter, weighing from 400 to 500lbs. of meat, will be sold to the butcher for about 40 rix-dollars; and a stall-fed ox, *extra-fat*, as the term here is, will fetch from 100 to 150 rix-dollars, and weigh 800lbs. without the offal. An experienced Cape butcher declares, that he never slaughtered an ox that weighed more than 830lbs. Dutch, or 896lbs. English weight, without that part which is, in England, called the fifth quarter.

Mules, imported from Buenos Ayres and the Brazils, are in considerable estimation and number, in and about Cape Town. Their usual price is about 200 rix-dollars; and, working upon little food, and that of poor quality, living where horses would starve, and not requiring care, they appear to be useful; but, not re-producing, can never be considered profitable stock to the boer. Some few mules are bred in the colony, and a good Spanish jackass sells for 500 or 1000 rix-dollars.

The number of horses is very considerable. The original Cape pony, (for few are above thirteen hands and a half,) in whose breed there is Spanish blood, is a most extraordinary animal, carrying his rider through sands and over hills, without other rest than for an hour or two, at the public halting-places, called the *Uitspan*, where he rolls in the dust, and refreshes himself with a scanty bite of such grass and herbs as are there produced, and by drinking water which very frequently is brackish. These animals pace about four miles an hour throughout the whole day, but if pressed beyond their usual rate, they give way. The original draft horses are of rather a larger size, and eight of them will, in like manner, draw the pleasure and draft waggon of the country, which is the general and only convenient way of travelling through the peninsula and *Overberg*, in the distant *drostdys*. These waggons have canvass tilts over them, to defend the traveller from the sun in summer, and from the rain and cold in winter. Where the mountains are too high, or the sands too heavy for horses, the travelling waggons are drawn by oxen; and in distant

journeys, oxen are chiefly used, as grass or bushes are found every where, on which they can feed and work; whilst horses require barley and chaff, or oats, when they rest at night, and those are not always to be had. A slave or Hottentot leads the oxen, but in the horse waggon one man holds the reins and drives by them; and the boer, the chief coachman, coerces the horses with an immense whip, with which he performs his part. A masterly management of the whip is the pride of a boer. He commences as soon as he can hold one, and such is his accurate aim, that a dexterous driver can kill a bird on the ground whilst in the act of passing with his waggon, if it be within reach of the whip, which is long enough to strike the leaders on any part to which it may be requisite to apply it. The Four-in-hand Club must not assume to itself the least precedency. They are comparatively children in the profession, and would shrink before the boer, who, in an instant, getting his eight in hand into quick time, twists them, unassisted by the collateral aids of bearing-up reins, round and round in various directions, vying each with the other in address and dexterity, and displaying their well-painted waggons and spirited horses. This takes place on a Sunday, after service, on the space before the door of the drostdy church, which is the arena for exhibiting all the powers of complete coachmanship and well dressed horses.

The boer puts his team into a gallop just before he reaches the first rise of a hill, and continues it half way up, if the hill be long; or if it be of moderate length, the whole way; and considers the velocity given to the team to be a relief to the weight. As soon as a team of spirited horses see the rise of a hill they are to ascend, they start off at a pace and with a force not to be checked by a driver of a puny breed. In truth, nothing would surprize an English coachman more, than the sight and action of the pleasure waggon of a boer, with its usual appointments in horses and driver.

Amongst the exports of the colony, the reader will have to remark horses. It may be stated to have been created by the present governor. He introduced some of the best bred stallions of England, and by their dispersion, the race of horses has been so much improved in size, temper, and beauty, as to become desirable objects of acquirement at Mauritius and in the East Indies. The visitors from India,

who resort hither for health, return accompanied by one or more horses, purchased for riding, driving, or racing. Exclusive of individual sales, cargoes of Cape horses have lately been shipped for Mauritius; and, as the speculation is said to have been advantageous, it may possibly lead to a regular commerce in horses with that island. This export seems to grow with the improvement of the animal, and an important balance of near 300,000 rix-dollars has been paid within a few years for Cape horses; and that which appeared to be undertaken for the gratification of hunting or racing, has become a substantial source of profit to the breeder, the farmer, and the shipper.

Amongst all agricultural stock, swine are least encouraged. There is a dislike to pork among the Dutch inhabitants; and it prevails so strongly among the Mosambique and Madagascar slaves from prejudice, and among the Malays from the tenets of their religion, that it requires the eye of the master to see these animals even regularly fed; and the supply of hams and bacon from England and Holland is so abundant, as to make them an object of little consequence to Europeans.

A flock of geese is a valuable appendage to a farm. Whether in the town or in the country, every Cape-Dutch sleeper reposes on a feather bed and on three or four pillows, and as the individual increases in corpulency, so do the pillows in number. This inclination to fatness is so certain to take place, particularly in the Cape female, that six pillows are required as the least possible accompaniment for each bed. The consequence is, that at every farm the featherless breasts of numerous geese present themselves to notice. They yield considerable profit, by a three-fold plucking during the warm season.

The boers in some respects resemble the yeomanry of England. They are the proprietors of the farms, or places as they call them, which they occupy in right of ownership, subject to an annual payment to government, as the original lord of the soil. Such a thing as land on rent, from the owner to another, is hardly known. The lands are held under one of the five following tenures: first, freehold (eigendom), of which description few farms exceed sixty morgen, or about 120 English acres. The greater part of these were formerly granted for a sum of money paid down; consequently the government of this day

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receives no advantage from the grants. This tenure is now in disuse, and none of this description have been made latterly.

Second, Perpetual loan-places (leening eigendom), also now in disuse, consisting of about 60 morgen (120 acres) of freehold land, given on the resumption of the loan-right, and for which there is an annual payment of 25 rix-dollars to government.

Third, Loan-places (leening), generally one half-hour's walk every way from the centre, at a usual pace. An annual payment to government of 25 rix-dollars is charged on these.

Fourth, Fifteen years quit-rent leases. These consist in an indefinite but small quantity of land. The leases are expiring, and are not expected to be renewed. The usual annual payment to government was four schellings for a morgen, or two acres.

The fifth is the perpetual quit-rent lands, from one morgen to 3000 and upwards. The annual payment depends upon the quality and circumstances of the land; but on loan-places, converted into quit-rent, no greater payment than 250 rix-dollars per annum is allowed to be taken.

Nothing can be so plain and simple, and at the same time so free from all possible doubt and dispute, as the title to estates in the Cape colony. They all emanate from the governments of that day, whether Dutch or English, which had possession of the Cape when the grant was made.

To acquire land, the first step is a memorial to the governor, praying a grant of certain land on perpetual quit-rent; this is referred to the landdrost and heemraden of the district where the land lies; and if there be no objection by reason of interference or encroachment on the private rights of another, or any objection on public grounds of roads, fountains, or such matters, the government sworn surveyor makes out his diagram or plan, and particular description and measurement of the land, which, after being approved by the landdrost and heemraden, is forwarded by him to the governor. If the governor consents to the grant, a deed is made out in duplicate, with a correct description and chart; one part of which is given to the party, and the other is registered, and remains in the colonial office. Possessed of this grant, if the owner de-

sires to mortgage the land, he brings his title to the colonial office, where a bond for the amount of money to be advanced on the security of the land is prepared and executed, before two commissioners of the court of justice, sitting at the colonial office every Friday, for the purpose, and in the presence of the colonial secretary, who so certifies on the bond itself. These bonds are entered in a book, called the Register of Debts, and are preferable claims on every estate, real or personal, according to the date of registry. There can be no valid or legal mortgage on an estate unless the bond, called *skypgennis*, be registered in the colonial office; and in case of sale, no transfer can be made through the colonial office by the commissioners, till after a settlement of all bonds, either by the mortgager consenting to continue his loan on the securities of the new purchaser, or by repayment. When that is arranged, a fresh transfer, referring to the old one from the proprietor to the buyer, is prepared, and they both attend, or some one for them by power of attorney, when the one makes over, and the other accepts, the transfer before the commissioner of the court of justice and the colonial secretary. This also is in duplicate, one part of which is delivered to the office and retained for registry, the same as in an original grant, and the purchaser departs with his title complete.

Thus, without a possibility of fraud, or of the existence of claims withheld, or mortgages concealed, may the largest and best conditioned, or the most involved, estate, where parties consent, be sold and transferred from one owner to another, on a couple of sheets, or less, of paper.

Before any transfer is signed, a certificate must be produced to the colonial office, from the collector of inland customs, that the sale price has been declared on oath, and the duty of two and a half per cent. on loan places, or four per cent. on others, has been received by him.

No deed before a notary can convey land, nor is any title good, or rather there is no title to land, but by transfer at the colonial office in the way before stated. It must be obvious that this expeditious, yet clear and secure manner of conveying property from one to another, can be practised only in countries where the transactions are simple, and where the property is of recent birth and ownership. There is no register of a grant of lands previous to the year 1685.

The ponderous mass of English conveyances is perhaps

absolutely required in that country, where the laws of settlement, of primogeniture, and of entail, have been growing for ages; and where the legal trappings of many centuries must necessarily be in strict force and effect.

In the Cape colony there are few farms or places that remain long in the same family; probably not during two descents. The legal distribution of property between all the children of a family, whether male or female, renders the sale of an estate usual on the death of the owner. Sometimes the whole is purchased by one son; but frequently it is sold in parts: and very soon the whole goes into other hands. The estate of the Cloetes, at Constantia, had descended from father to son, upon the payment of a sum to each of the other children in proportion to the claim; but of this there were few examples; and it no longer is in force at Constantia.

There is in the colony none of that strong innate feeling of regard for a native spot, which obtains in England; no attachment to the place, where the years of boyhood were played away. Such a sensation could not be understood or felt by a Cape-Dutchman. So much land, of such a quality, will produce so much corn; so much veldt, or field, will feed so many oxen, cows, and horses; no matter, where.

By the following statement of a three years average of the quantity of wheat brought into Cape Town since and inclusive of 1804, it will be seen how far the supply to the Cape, and consequently the growth of corn, has increased of late years. The granary at the Cape being a depôt for the supply of Batavia and the eastern possessions of Holland, the growth of wheat was a decided object of the Dutch Cape government. The price of wheat in those days may be calculated at from 40 to 50 rix-dollars per load of ten muids, weighing 1800lbs. Dutch. The current price, when no dearth prevails, may now be estimated at 100 rix-dollars per load; but by its variation it has generally afforded fair encouragement to the grower.

The quantity of wheat brought into Cape Town,

In 1804, 1805 and 1806	=	91,341 muids.
1807, 1808 and 1809	=	123,918
1810, 1811 and 1812	=	128,013
1813, 1814 and 1815	=	147,038
1816, 1817 and 1818	=	145,623
1819, 1820 and 1821	=	97,984

The years 1819 and 1821 were years of blight, and it will be nearest the fact to take the average quantity necessary to supply the various demands of Cape Town from the preceding three years, which gives 48,561 muids annually. It is evident that this quantity is expended in the current year, as in the next year, 1819, the harvest fell short, and no available supply could be had from any former surplus, so as to prevent the substitution of rice in bread. The bakers of Cape Town consume 30,000 muids, and the remaining 18,000 vanish in the neighbouring villages, in Simon's Town, and among the merchant ships, all requiring meal for their daily use, and the latter as a supply for their voyages.

Unless there be a breadth of ground yearly in wheat, sufficient to afford the above quantity to be taken into Cape Town, there is a scarcity there. Allowing the population of Cape Town and the neighbourhood, to be 21,000, which is not a fifth part of the present population of the colony, the quantity of corn required for the whole people, (including the surplus 18,000 as a supply peculiarly required for the Cape,) amounts to 168,561 muids, to which may be added about 20,000 muids for seed, making a total of 188,000; more than equal to an average good harvest, and not leaving much to spare in an abundant one for the evil day.

A very erroneous opinion has prevailed, that the Cape colony has the capability of growing any quantity of bread corn. The early school recollection of the granaries of Alexandria, and the eastern parts of Africa, which supplied ancient Rome, and now supply Constantinople, may, perhaps, leave an impression of general fertility in the corn lands of all Africa: but the overflowings of the Nile, or of any other river, do not fertilize this soil, and there is no delta here. That this is an error, experience has now decidedly proved, though it appears not to have worked complete conviction of a truth, that, so far from the Cape having the power at present of growing wheat for exportation, she has not the means of producing, on an average of years, enough for her present inhabitants, without having recourse to barley bread; for bread is the chief part of the food of the slave population of the Cape.

In the days of Buonaparte's detention, the greatest possible impulse was given to the agricultural produce; yet in

those years, the quantity of wheat brought into the Cape market was only just sufficient for the demand of St. Helena, and for the colony. A gradual small increase of the growth, as long as there remain unoccupied lands fit for cultivation, and until all land is fully cultivated, may possibly ensue; but events prove, taking good and bad seasons, that the Cape at no time, with a smaller population, could do more than grow its own bread; and that even in these days of improved agriculture, whenever a harvest excessively abundant tempted to the folly of exportation, dearth has uniformly followed, and a quantity of grain, exceeding the export, has been imported in the succeeding year to prevent distress.

No man, under all circumstances, can expect again to see wheat at less that 150 rix-dollars per load, except for a time, from the unusual circumstance of two or three abundant harvests in succession, or from an excess of import, destructive of the course of exchange and of agriculture.

If the above statement be doubted, let the quantity of wheat required for the use of the colony be taken at one pound of corn per head per day, for a population of 110,000 inhabitants, of which a large proportion live chiefly on bread, the number of muids required will be 223,055, and adding, as per opgaff of 1818, 16,077, for seed, must amount to 239,132 muids—a quantity far beyond the produce of the Cape at the present moment, even without the periodical recurrence of drought and blight.

Population Return for 1818:

District.	*Inhabitants.*		*Hottentots.*		*Apprentices.*		*Slaves.*		*Muids Sown.*				*Muids Won, or Reaped.*			
	Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.	Wheat.	Barley.	Oats.	Rye.	Wheat.	Barley.	Oats.	Rye.
Cape Town .	3860	3600	260	276	541	269	4332	3110								
Do. (Free blacks)	921	984				..	..	..								
Cape District	1349	1112	481	440	298	72	2621	1203	3257 3/14	940 1/4	3615 1/4	122 1/8	31415 1/2	18131	16675	839
Stellenbosch .	2584	2437	898	929	103	29	5603	3132	4187 1/8	729 1/4	3774 1/2	284	34547	12409 1/2	241341/4	2103
Tulbagh . .	2392	2190	2297	2371	12	5	2494	1732	3334 1/8	979 1/2	924	275 1/4	36863 1/4	15380 1/4	9301 1/2	2609 1/2
Swellendam .	2807	2571	1693	1600	1	1	1625	1198	2864	877	140	154	30416	11636	1636	940
Graff Reinet .	4490	4024	3435	3551	3	2	1279	910	830	421	1	1 1/2	16539	6779	12	38
Uitenhage .	2405	2087	1145	1018	..	..	548	444	695	178	20	..	8214	1984	139	
George . .	1626	1415	1280	1306	..	..	951	782	908 1/2	322	14 5/8	..	11745	4436	153	
	22434	20420	11489	11491	958	378	19475	12511	16077 7/14	4447 1/2	8489 3/8	837 1/4	169740	70755 1/4	52050 1/4	6529 1/4

By the foregoing Population Extract of 1818, considered to be more correct than later ones, there appear to be 99,154 inhabitants of all descriptions, exclusive of strangers.

Add 4,000 for strangers, military, navy, sailors in merchantmen.
4,000 settlers in 1820 and 1821.

107,154
2,345 increase in slave population beyond opgaff of 1818. Vide Cap. IV.
539 omission of opgaff in number of prize apprentices, there being 1839 imported, besides their increase since 1808.

110,038

The opgaff of population here quoted must be less than the actual number, the increase of the white population since 1818 not being noticed.

Number of Muids of Grain of every Description brought into Cape Town from 1804 *to* 1821, *both inclusive, according to the Market-book.*

	Wheat.	Rye.	Barley.	Peas.	Beans.	Oats.
1804	37,535	..	25,409	793	617	2,543
1805	23,234	1,589	22,144	686	635	3,042
1806	36,572	2,069	23,894	359	1,004	6,929
1807	41,575	996	32,468	334	468	6,827
1808	40,681	332	26,012	168	285	4,875
1809	41,662	754	29,234	167	234	7,002
1810	35,912	546	26,837	335	310	6,349
1811	40,616	697	28,023	415	220	7,795
1812	51,487	166	25,380	375	342	5,136
1813	41,051	263	25,136	515	437	7,495
1814	38,671	824	27,058	329	339	12,538
1815	63,316	640	30,323	230	263	14,242
1816	58,873	368	31,954	424	294	18,394
1817	44,831	469	27,192	487	444	11,971
1818	39,979	665	25,072	490	554	12,665
1819	25,865	544	18,554	145	384	12,776
1820	53,765	489	30,253	182	618	20,164
1821	18,354	1,174	23,859	268	402	21,184

There is a duty on each load of ten muids of grain paid at the market: 3 rix-dollars for wheat; 2 rdrs. 2 sch. 4 st. for barley and rye; 5 rix-dollars for peas; 4 rix-dollars for beans, and 1 rix-dollar for oats; besides turnpike toll of half a rix-dollar per load.

From these documents it is apparent, that the Cape colony does not grow wheat enough for bread and flour to supply the shipping and its own population. It is nowhere proved, that since the English conquest it ever had the power of so doing, and the result appears to be, that a numerous portion of its inhabitants are in every year sustained by bread made wholly or in part with barley, of which the supply is abundant. Bread made with a proportion of barley flour may be wholesome, and those compelled by circumstances to feed on it are not claimants for pity; but let not the public be deceived into a persuasion that there grows, or can grow, a sufficiency of wheat equal to the supply of an additional population to any possible extent.

To this popular, but erroneous opinion, by which even the rulers of the land were deluded, are the sufferings of the English settlers to be charged, as far as relates to distress now felt by the dearth of bread; and one of the principal duties of the colonial government, for many succeeding years, appears to be, to encourage, by every possible means, and by every favour and indulgence to the boer, the most abundant growth of wheat of which the colony is capable.*

SECTION II.

Vineyards.

The wines of the Cape are the objects next in importance to its agriculture.

In 1806, when the colony became English, five thousand leggers of wine, each of 152 gallons, passed into Cape Town, (6909 pipes.)

* More attention may, perhaps, be given to the growth of Indian corn than has hitherto been the case. Surely, it has never been deemed an indispensable condition of the prosperity of the colony, that the whole of its population should be subsisted on wheaten bread. With abundance of barley and maize it might yet thrive.—Ed.

The quantity increased gradually, according to the seasons, until 1813, when the reduction of the duty in England, causing an augmented export, gave rise to such an addition of vineyards, that above 12,000 pipes were exported in 1817; and 10,000 leggers (13,818 pipes), have, for the average of the last five years, been annually brought into the Cape market, with the prospect of a very considerable further growth, as the new vineyards have not arrived to the point of their utmost produce.

It must naturally follow, that this immense supply outrun the demand; and the price to the wine boer declined so considerably, that the increased produce is of less total value, than the inconsiderable growth of former years.

The wines are of various descriptions. From the Muscadel grape is pressed the well known Constantia and muscat wines, of peculiar flavour, both white and red. In these wines there is no taste of the soil: whether it be overcome by the sweetness of the grape, or that this wine will grow only in one spot, free from imparting such taste. Such was the general opinion; but Mr. Sebastian Van-Reenen, a Cape-Dutch gentleman of great enterprize and sagacity, and well acquainted with the colony, purchased the place of Witteboom, soon to become the third Constantia in name, but the great Constantia in produce; separated only by a hedge from Constantia. Reflection convinced him, that the hedge which divided the property had not altered the nature of the soil on his side; to which was added, his belief that there was something in the climate of that hill imparting the flavour to the wine, as he observed the vines at Constantia to yield the same quality of wine, whether grown on white sand, clay, or gravel. Van-Reenen immediately planted 110,000 vine stocks of the Muscadel grape on the adjoining hill. The seasons were unfavourable; and the jealousy of neighbours, perhaps, anticipated without displeasure the disappointment of Van-Reenen's hopes. The first year, heavy rains pouring down the hill carried with them both vines and land; but he had too much resource to be dismayed, and his attentive observation of what had taken place in the first season, suggested the efficacy of deep open trenches traversing the vineyard, and dividing it into sloping compartments, receiving and carrying off the deluge before it could act on the surface of the whole vineyard. Complete success was the result of his

foresight, and in a few years the vineyard is expected to produce a great supply of that denomination of valuable wine known under the name of Constantia. After the disbursement of a very large sum of money, and the exertion of many years of time and anxiety, Mr. Van-Reenen lived only to see that his prospects were about to be realized.

The Constantia wines were sold a short time since at 200 rix-dollars, now reduced to 150, per half-aum, a measure of 19 gallons, which is a price higher than that of any other known wine at the place of its growth. There are said to be about 80,000 vines in bearing at Great Constantia, producing 30 leggers or 240 half-aums of white or red Constantias and Frontignac. The Little Constantia, as it is termed, produces more wine than the Great Constantia. The produce of the vintage of March last is, 40 leggers of Constantia and 40 of Cape stock. These two Constantia farms are held under a particular tenure. The Dutch East India Company had the monopoly of the export of Constantia wine; but the purchasers of these farms redeemed the monopoly, by an agreement to deliver 60 half-aums from each farm at 25 rix-dollars per half-aum; which are, under the same covenant, now received by the British colonial government. Great dissatisfaction has been felt by the proprietors of the two Constantias at government continuing so to do during the high price: but the reply was, that such was the condition of the grant. Whenever the vineyard of Witteboom yields in abundance, the price will, in all probability, be so reduced, that the government will pay more than an individual, and the proprietors may fairly retort, "such was the condition of the covenant." The wine is sent to England as presents to soften the temper of ministers, and to sweeten the lips of royalty itself.

In June and July, at the usual time of pruning the vines, sufficient stocks are reserved for the formation of new vineyards where required. The ground is well dug, where moist, to the depth of two feet, and where dry, three feet; and the stocks, from 18 to 24 inches, are planted in rows about three feet apart, chiefly in the month of September. The young vines throw out shoots almost immediately, and bear a few bunches of grapes the second year. The third year gives a moderate picking: and in five years the vineyard is in full bearing, and if properly treated will

remain so beyond fifty years. One thousand stocks, when well trained and manured, yield a legger of 152 gallons of wine; but now that vineyards are multiplied, and manure less easily obtained, fourteen or fifteen hundred may be required for a legger. The grapes are trodden out by the feet of negro slave men, and the juice so expressed received into vats and casks, where it undergoes a fermentation, (a strong one it is to be hoped) together with all the future process. The vintage takes place in February and March; but no wine is by law permitted to be brought into Cape Town till the following September, and regard is in this instance properly paid to the health of the people. Many of the new vineyards are on rising grounds or the lower slopes of hills, in the expectation of improving the quality; yet as vineyards in the low grounds yield most fluid, the avarice of the moment operates as a check to improvement. The wine boer does not consider how much the production of a good staple of wine will add both to consumption and price, whilst the continuance of the present quality will narrow it to the mere beverage of the colony.

The individual most interested in the growth and export of the wines of the Cape, and better qualified from his abilities and observation of all that passes with respect to vineyards and wine, to give an accurate statement, observes that there are really no more than eleven distinct species of vines, from which, perhaps, 150 different sorts of wine may proceed. He calculates that there were, in 1824—

22,400,100	bearing vines
2,820,000	not in bearing
25,200,000	

Of these vines, 21,000,000 are of the common green grape, vitis vinifera of Linnæus; of which is made the white wine, called Cape Madeira. Of the pontac black grape, which is the same as the cote-rotie of the Rhone, the pontac of Guienne (or the pontac of France,) and the port grape of the Douro, there are 270,000 stocks. Of the Muscadel grape, which gives the sweet wine of the same name, and also the Constantia, there may be reckoned 525,000 stocks. Of the green steen grape, which gives the full-bodied steen wine, so called from the same grape on the Rhine, and which is well adapted for wine, but not

productive, there are 180,000 stocks. Of the hanepoot, used for raisins, but unfit for wine, on account of too much mucilage, 275,000 stocks. The remaining six species may be found, but they are not suitable to the climate or soil, and possess too much water and mucilage, and too little sugar and tartar; and of them there may be 150,000 stocks. The 2,800,000, not in bearing, will give the same proportion; and they compose the young vineyards not yet in produce.

According to this calculation, reckoning 1400 vines to a legger, the total produce of the Cape vineyards amount to 46,000 leggers or 21,333 pipes; and if the annual exportation of 12,000 pipes had continued as it stood in 1817, the consumption of the remaining part of the colony, exclusive of Cape Town and its vicinity, together with store wine for the supply of ships in port, and with what is kept in vats for improvement, would have absorbed the whole quantity made. In this year, the export amounts to 6880 pipes, leaving a great increase in the stock of wines in the hands of the wine-merchants at the Cape. The vintage of last March has not quite equalled former ones; but it will leave a growing surplus quantity of wines, to be delivered in September, unavailable for the purpose of remittance. The only desperate hope, in which a wine grower can at present indulge, is, that the blight might abandon the wheat and settle on the vines for a season.

The object on which, and on which alone, men here dwell, is a hope that the legislature will allow the Cape to become a free port in the true and liberal sense of the word. "The State of the Nation," published at the meeting of Parliament, and evidently the exposé of government, affords expectation, that, in a very short period, the hope will be realized. This pamphlet, amongst other praise, applauds ministers specially for continuing at the peace, the "Free Port of Bermuda," and generally for "free ports, so wisely *established*;" adding, "The object of their maintenance is twofold; the one reflecting much honour on the political generosity of the country; the other, more particularly directed to the maintenance *and advancement of our interest*." It is impossible not to acknowledge, "the frame is excellent and in every respect consistent with liberal policy and *just commercial views*."

Under the order of council, and the bonding system, it is

now permitted to those foreign nations, in amity with Great Britain, who grant similar indulgence to the commerce of the Cape of Good Hope, to land on duty for consumption, and to bond free from duty for exportation, any produce and merchandize (with the exclusion of cottons, woollens, steel, and iron) of their respective countries. To this should be added, the extension of bonding, for exportation, the produce and merchandize of all other countries. Ships of every nation would then resort for their mutual traffic and exchange of articles, and the Cape become an important depôt for the east and the west. Under such a system, probably, the wines might find a full sale in the consumption of an immensely increased tonnage, and with the addition of a considerable export to America. With such an opportunity of trade and barter as a free port gives, few ships would omit to call at the Cape, even in the outward passage to India; and, probably, none in the homeward would neglect so enlarged a market.

A duty of four rix-dollars six schellings is paid on each legger, for market money, &c.; and on export, the wine taster receives three rix-dollars, including gauging, on account of government, and one rix-dollar for wharfage. There was formerly an export duty; but every description of export from the Cape is now duty free.

If a wine boer, living at Stellenbosch, sends a legger of Cape wine in a waggon drawn by twelve oxen and attended by two slaves, they return at the end of four days with, possibly, a three months' credit on some Cape wine-merchant, for 45 rix-dollars; from which must be deducted the payment of four rix-dollars six schellings duty and gauging, and also half a dollar turnpike toll; leaving to him, on each legger of 152 gallons, the sum of three pounds sterling, as the value of the rent of the land, of the carriage of his own labour, and that of his slaves or hired servants, and as the fund for his household and personal expenses and those of his family. By the present newly-built waggons, with immense circumference of wheel, each bearing four leggers, the expense is lessened, and twenty oxen only are sufficient to drag this vehicle to Cape Town, which saves twenty-eight oxen in the carriage of four leggers.

The culture of a vineyard requires only at particular seasons of the year any large supply of hands; and a regular price of one hundred rix-dollars, in the market, would

be a full and satisfactory payment for the legger of new Cape wine, of the best quality.

From the refuse of the grape, is obtained a poor description of vinegar, and of brandy, which is an ardent and destructive spirit, and of a quality unfit for exportation, or for the improvement of the wine. It is chiefly consumed by the sailors of ships in harbour; and by persons of the lower class, who value liquor according to its power of intoxication.

There is a market duty of three rix-dollars per legger on brandy, and one for gauging.

Number of Leggers of Wine and Brandy brought into Cape Town, as per Market Book.

	Wine.	Brandy.
Year 1804	6016	511
1805	5000	602
1806	4732	448
1807	5265	337
1808	2982	316
1809	5003	298
1810	4897	373
1811	6947	309
1812	5363	439
1813	6073	315
1814	5655	301
1815	9951	560
1816	8757	702
1817	12379	506
1818	7701	385
1819	8888	448
1820	11096	506
1821	11624	566

The consumption of the colonial wine in Cape Town and the neighbourhood is calculated

at . . . . . 1200 leggers for the Pachter,

and . . . . . 3000 { leggers for the town and neighbourhood,

and for Simon's Town 480 leggers, making a

total of . . . . . 4680 or above 6500 pipes, which, with the export of . . . . . 6877 pipes, brings

the consumption of 1821 to . . . . . 13,377 pipes, leaving 3693 pipes in the hands of the dealers.

The consumption and the export have been nearly the same for the last three years; and there must probably be now on hand about 11,000 pipes, beyond the annual requisites. If this could be exported, yielding £10. per pipe, it would add 1,384,873 rix-dollars to the balance of exports. The colony is capable of doubling its produce in wine, if consumption could be found: but five thousand pipes is the utmost annual consumption of the British market. It is jocosely said, that, in a fashionable tavern, if you order a pint of sherry, you may have a bottle of Cape wine gratis.

It may appear to the reader that too much stress is laid on the importance to the Cape of this single article of export; but those, who are most alive to the interests of the colony, are convinced, that her progress mainly, if not wholly, depends upon the sale of wines. It is in fact upon that alone, which is her natural produce, that Great Britain can rely for the eventual payment of an overwhelming mass of imports now unsold; and it is on wine that the colony must rest, as the means of its future progress, long after that moment, when the infatuation of sending out settlers has given way to a sober sense of the real capabilities of the Cape of Good Hope.

SECTION III.

Whale Fishery.

In point of interest the Whale Fishery ranks next to agriculture and to vineyards. There are seven fisheries at the Cape of Good Hope. One at St. Helena bay on the northern coast; two in Table bay; three in Simon's bay, and one on the eastern coast in Algoa bay.

A few whalers came out as settlers, and as they brought the necessary apparatus, it is probable that other establishments may be formed. Some years ago, the fisheries, being only three in number, were profitable to those concerned. The price of oil was high in England, and fish were so abundant in the bays, that one fishery in Simon's bay melted down nearly as many whales as were taken last year by all the seven parties. The reverse now obtains. Fish are scarce in the bays, and oil is at a low price in England.

The whale fishery is a lottery, in which there are now too many tickets for the number of prizes. When a fish makes her appearance, either in Table or in Simon's bay,

the chase begins. The eagerness and rivalship of the contending parties, pressing forward to strike the fish, (which act gives ownership,) is so great, that whales are frequently hunted out of the bay before they can be harpooned; and the whole number taken the last season by the seven fisheries, amounted to no more than thirty-seven, and the export proportionably reduced. The whales are principally females, the greater part of which come into the bays from June to September inclusive, for the purpose of calving. They are on an average of the length of sixty feet, and yield, one with another, about 14 leggers, or two thousand one hundred and twenty gallons each, of what is called train-oil, and 500 pounds of bone.

There are none of the spermaceti, but an abundance of those called hunchback, or the fin whale. These are so furious and active, that they are avoided by the harponeer, yielding each no more than about three or four leggers.

The success of a fishery, when whales are in plenty, depends upon the skill and boldness of the harponeer; and in a conflict with so powerful a fish, courage and skill are required. If the whale is approached too nearly at the moment of his fury, the boat is upset, or shivered by the stroke of the tail, and the rowers drowned, unless a second boat of their own party, for they hunt in pairs, comes to their rescue. It is to be hoped, that, on such an occasion, the adverse chasing boat would desist, and give assistance, and not, like the fox-hunter, gallop on with a "hark forward," though he sees his friend in a ditch; but it is better not to depend on such help.

The harponeer receives one hundred rix-dollars, if he strikes the fish mortally, and the rowers in proportion, which makes the whole party share-holders in a degree.

There are seals on the small islands on the east and west coast, and about eight thousand skins are, on the average, annually exported. The fisheries might be more beneficial to the Cape, if followed with diligence and enterprise. The whale fishery is confined merely to boats in the bays. The catching and salting of smaller fish, which are abundant, is almost wholly neglected; and where there is such a harvest, indolence will not stretch out her hand to gather it.

No ship has, as yet, been fitted out at the Cape for the whale fishery, although whales swarm in the surrounding seas in all directions. The foreigner sometimes fills

up on the coast, on his return from the southward; but in this region of ease and idleness, unless fish come into the bays, offering themselves to the harpoon, a Cape fisherman will not go out to sea to take them. Fish for food and Cape brandy are acquired with so little expense and labour, that necessity, the parent of industry, provokes into action a very small portion of the inhabitants of the colony.

SECTION IV.

Produce.

Aloes grow chiefly in the districts of Swellendam, of George, and the parts towards the eastern coast. The Cape aloes are not of the best quality, but the export notwithstanding appeared to increase in 1820, and added to the scanty list of South African productions. This demand has slackened in 1821. The export of this vegetable substance would be augmented, if there was an increased demand, either at home or elsewhere, which is improbable under the present heavy duty.

Of hides, and of goat and sheep skins, the export will grow with the slaughter necessary for an increasing population. The tanneries of Great Britain so greatly excel those of this colony, where oak bark is procured with difficulty, and where the bark of mimosas and other trees is frequently substituted, that the chief supply of tanned leather will continue to be imported from England, and hides and skins to be exported.

There are about one hundred and ten thousand sheep and goats, and four thousand horned cattle, slaughtered in the Cape shambles alone, within the year. The number of skins which the Cape supplies, together with the interior, will gradually increase into an object of importance.

An attempt, on a large scale, to salt and export beef from Algoa bay, where salt abounds and cattle are fat and cheap, was made by individuals fully competent to the undertaking; but either from the inferiority of the article, or from too great rivalship in a foreign market, the plan failed and was abandoned.

Argol and barilla have been matters of experiment; but the price in Europe does not appear to afford sufficient encouragement to pursue an object of doubtful success.

Of ivory there is a probability of a considerable increase. The progress of the missionaries into the interior, beyond the boundaries of the colony, where elephants abound, and the friendly manner in which they have been received, will open, through them, a trade of barter, producing a much greater supply of ivory.

As long as ostrich feathers are considered to be an essential ornament to female grace and beauty, and the present price continues in England, an increased export may be expected; although the young and the gay of every colour, composing this variegated population, should continue their Sunday parade through the streets of Cape Town, decked in the spoils of the ostrich, and apeing the fashions of the elegantes of London.

Horses are sent to India, and horses, oxen, and sheep to Mauritius and St Helena; but the export of live stock is so precarious, that no dependance can be placed on its permanency.

Apricots, peaches, pears, and apples, are dried in such a manner, as to preserve the taste of each until the next season. The sun of South Africa acts on these fruits, when peeled and laid out to be dried for a few days, in a manner preventing either moisture or flavour to exude. This export, more considerable than would be supposed, is likely to continue as long as fruit tarts are agreeable to eastern palates.*

By what has been now stated, it is shown that the principal articles of exportable produce to Europe appear to be wine, whale oil, aloes, hides, skins, ivory, ostrich feathers, argol, and barilla, to which may be added wild beasts, and natural curiosities; to St. Helena, oats, whale oil, wheat, flour, barley, dried fruits, hay, horned cattle, sheep, poultry, butter, soap, wine, and a few horses; to the Mauritius, butter, dried fruits, hides, horses, whale oil, and wine; to the East Indies, horses, Constantia wine, and dried fruits.

The quantity and amount of these exports will appear in the list of Custom House Exports for 1821. (Appendix.)

To the internal commerce of the Cape there are many

* There might be a considerable export of ox and cow horns, which are of an immense size; but as they are lying waste in every corner of the streets, and on the sea shore, and as no more than 3000 were exported in 1821, it may be concluded that it does not answer profitably.

obstructions presented by nature in her most wayward mood. The mountains and kloofs to be passed are so numerous and difficult, the rivers, without water when it would be useful, are at other times so swollen as to be impassable, that the whole trade amounts to little more than what the boers can bring in their own horse waggon, and in one or two ox waggons, which being sent forward, they overtake on the road; and which carry the means of acquiring clothing and such comforts as the value of their cargo may enable them to purchase. Inconsiderable as this appears in the abstract, it is important in the aggregate. In the months from September to February, when wine and corn is brought in, a line of waggons from the country will make its appearance at day-break, extending some miles. After an abundant harvest, one hundred and eighty have been counted in a morning; but the average of the month of January this year amounts to sixty daily. They enter the town through the market place, where, after payment of the inland customs and market dues, the sale of their produce takes place, under the regulations of the burgher senate. When sold, the waggons proceed into the town, to deliver to the purchaser; and if these are the waggons attendant on the boer, who has previously arrived in the town, and transacted part of his business, they are dismissed to the out-skirts, on their return homeward. The boer having preceded in his own waggon, and begun his business in the Cape, adjourns to the neighbourhood of Hottentot-square, usually called the "Boere Plein." From his agent there, he gets iron for his waggons, cloth, linen, rice, tea, sugar, coffee, &c. sufficient for himself, his family, and his slaves, until the next visit. His demands are increased or reduced according to the value of his grain, wine, butter, soap, or tobacco; and an unproductive harvest in any or all of these articles, is not more to be regretted by the boer than by the dealers, or koopmen, as they are called. The boer is a most important customer, and when his consumption is reduced, which it is, when his articles sell for a low price, or are in diminished quantity, it is felt through every link in the chain. The wife and some of the children accompany the boer in these yearly or half yearly visits. It is a holiday not to be missed. The parties wander through Cape Town with the open mouth and stare of wonder; and the news of the day, true or false, are

eagerly swallowed and believed by these curious and credulous visitors. After two or three days the party returns home, with the superiority of having been at the capital, and deriving that sort of consequence in the neighbourhood (if there be any) which the wife and daughter of an English farmer does, after going to a fair or to the races.

The distance of the Cape Town from the northern parts of the colony is so great, and the impediments so frequent, that it requires six, eight or ten weeks for the out and home journey of a waggon, from the Snowberg, and in proportion for the less distant parts. The boer lives in his waggon, and victuals himself and slaves for the journey before he starts.

With regard to the eastern parts of the colony, there is less difficulty. The journey to Graham's Town, the seat of the landdrost of the new drostdy of Albany, where the majority of settlers are located, would require a six days constant ride on horseback, and fourteen in a waggon; but the trade is carried on by coasters to and from Table Bay. The settlement of so large a number of colonists on the eastern parts, has had a powerful effect on the coasting trade; and as it has happened from untoward seasons, that the settlers have had nothing upon which they could depend, except the supplies from the Cape Town; wine, coffee, sugar, rice, tea, brandy and flour, wheat for consumption and for seed, are in constant, and it may be said daily, passage, from Cape Town to Port Elizabeth; and a coasting tonnage, which in common course would have required years, has been created by the circumstances of two seasons. The returns to the Cape are rix-dollars, circulated on the frontiers by the pay of the army; aloes, butter, soap, tobacco, hides, skins, ostrich feathers and ivory, which are taken to Port Elizabeth and there shipped for the Cape. Vessels clear out from the Cape to Algoa Bay and Isle of France, or elsewhere to the east; and in such case, they fill up with butter at Port Elizabeth, for the Mauritius market; but ships are not allowed to land foreign cargo there, without first coming into Table Bay or Simon's Bay, to report themselves and pay duties.

The Port of Elizabeth is not as yet important enough to require a custom-house establishment, but an officer is stationed for the purpose of preventing illicit trade.

Notwithstanding the various accounts favourable to Algoa

Bay, which have been current since the arrival of the settlers, those, who, from the practice of years, are best acquainted with the eastern bays of South Africa, agree in stating them to be hazardous in all, and dangerous in some, seasons of the year.

The Knysna, when a ship once gets in, is allowed to be perfectly safe and secure; but it can only be entered at particular times of tide, and under the direction of a pilot. No ship would dare to be so near the shore, and if driven there by the gale, would not risk the passage into the harbour. The Knysna, therefore, can be only considered as a fine-weather port for coasters, to take in timber or produce, and for no other purpose whatever.

Mosselbay, although the anchorage is on better ground, is of the same character as Algoa Bay. The frequency and force of the south-east winds bearing upon the shore, renders the stay there perilous, though not so much so as in the other eastern bays: but a vessel in the coasting trade abounds in luck, if sooner or later she does not suffer most severely.

The tonnage of merchant ships in the trade between Port Elizabeth and Table Bay, during the year 1821, amounts to 1962 tons, employing 200 seamen; exclusive of the men of war and of the government brig Locust, almost wholly engaged in carrying up stores for the army on the frontier, and government supplies to the settlers. With regard to the home trade, by which every nation in Europe is gradually improved, it finds its place in the Cape history only in the supplies to the commissary, to the Indians, and to the missionaries. It has been shown, that when converted from rix-dollars into bills on England, it assists in the payment of the imports. Whatever is not so converted exhausts itself in clothes, furniture, food, or other personals; but in the present state of the Cape there can be very little accumulation of property.

SECTION V.

Commerce.

The tonnage of vessels arriving in Table Bay and Simon's Bay, during the year 1821, exclusive of the transports and men of war, amounts in the former to 56,447 tons, and in

the latter to 15,272 tons, making a total of 71,719 tons, as follows:—

In TABLE BAY, *for Refreshments only.*

	Tons.
British vessels	19,739
Dutch	3,308
Danish	236
French	1,379
American	
Portugueze	1,020

For the purpose of landing part Cargo.

British vessels from the eastward	10,276
from the westward	4,191
Dutch vessels	1,040
French	319

For the purpose of landing entire Cargo.

British vessels from the eastward	4,050
from the westward	6,482
Vessels with cargoes from the different parts of this coast	4,507
	56,447

SIMON'S BAY, *for Refreshments, exclusive of Men of War.*

32 English ships, 1 French, 6 Dutch	15,272
Total	71,719

The tonnage of 1820 exceeded that of 1821; in which latter year, the Cape lost much of the supply to St. Helena, after the death of Buonaparte. A judgment may be formed of the importance of the detention of Buonaparte to the Cape interest, by inspecting the custom-house valuation (Appendix) of the colonial and other exports to St. Helena, exclusive of presents, ships' stores, stock for the passage, stock really for sale at St. Helena, shipped as stores, all of which will be under-estimated at one-eighth more:—The

colonial and other produce entered at the customs forms the sum of . . . . . 347,697 rix-dollars
To which add 1-8th (unentered) . . . 43,462
And supplies to the navy, entered also at customs . . . 165,544 2
Rdrs. 556,703 —

"The whole of this payment was made to the Cape in Spanish dollars or in bills on England; and the continuation of this description of commerce would have been most important in its effects. Produced from the soil, worked by the hand of man, it is in its nature the most beneficial of all possible exports.

"The salubrity and healing powers of the Cape climate attract invalids from India, whose expenses in the colony are paid by bills drawn on India and England. In the year 1821, these bills were of the value of 700,000 rix-dollars, which being expended chiefly in the personal expenses of the individuals, in travelling, in the purchase of horses, in meat, drink, lodging, &c. are clear profit to the colony, and, like the export to St. Helena, generally compounded of land and labour.

"The commissariat bills on England, for the ordinaries and extraordinaries of the army, form another valuable article of export. Bills in sterling on England producing 1,932,855 rix-dollars, (including Spanish dollars at 20 schellings,) have been issued from the commissariat, and purchased by the merchants for remittance. A standing army, so frightful to the friends of freedom, is most welcome here, provided it be paid by Great Britain; and, there, is no colony where a large force would be hailed with such rapture as at the Cape of Good Hope.

The exports from the Cape of Good Hope (Appendix K.) to all parts of the world, appear by the accounts of 1821 to be —

	Rdrs.
In colonial produce	1,741,035
Not colonial	271,090
	2,012,125
Add 10 per cent. profit on sale beyond expenses	201,212
Carried forward . .	2,213,337

Brought forward	2,213,337
Bills from Indians	700,000
from commissary	1,932,855
from the missionaries	75,000
Total exports, Rdrs.	4,921,192

The imports from all parts are valued at the custom-house, as per Appendix H. at . . . . 6,060,222 Rdrs.
To which add 10 per cent. profit to be remitted 606,022

Making a Total of 6,666,244,

There is, therefore, an excess of import over export, in the year 1821, of 1,745,052 rix-dollars, which must be discharged by some means; and granting that the commissary may draw, in 1822, to the like extent as in 1821, nearly the whole of his bills will be required for the arrears, not taking into account the imports of the current year, for which provision ought also to be made.

Total exports, according to the custom-house account for the half-year from 1st January to the 30th June, 1822, amount to . . . . . 2,737,096 Rdrs.

Total imports, from 1st January to 30th June, 1822, amount to 4,127,310

There is, therefore, a surplus import of 1,390,214
To be added to the surplus of 1821 1,745,052
Which makes a total arrear of remittance due to England amounting to . . . 3,135,266 Rdrs.

The total value of corn and rice imported within twelve months, amounts to 1,029,785 Rdrs.

The acts of the legislature in the year 1813, and of 1820 and 1821, to which reference was made in the first chapter, were considerable boons for the liberty of trade, and for the importance of the colony; but in whatever way they may operate as to the future, they have, in truth, greatly added to its present embarrassments. The spices, the silks, the muslins and manufactures of the east, have been in all ages and by all nations sought after with avidity.

They gratify the palate and adorn the person, and to a South African they are irresistible! But, unhappily, the colony produces nothing acceptable in exchange for them, and they can be purchased only by the bills which the Cape receives from the visiting Indians, and by bills of exchange on England.

Computing the East India goods imported, exclusive of Mauritius, at one million rix-dollars per annum, there will be, beyond the Indian bills, an addition required of 300,000 rix-dollars, for remittance and prompt payment, which must be taken from the bills of the commissary on England. If eastern imports were to the Cape materials for manufacture, or to be re-exported in an improved and more finished state, affording profit from labour, it would benefit by the employment given; but the whole consist in articles to be eaten, or in dress to decorate the person. The passion of the colony for dress, and for all the enjoyments of luxury, surpasses its means; and it is too true that these indulgences are now really purchased at the expense of withholding the payment of the large and increasing debt due to England.

In the year 1818 and 1819, when the price of wine for export at the Cape was nearly 200 rix-dollars per pipe, including the cask, and the amount exported in the two years exceeded, in custom-house value, three millions and one half rix-dollars, exclusive of the expenses and profit on sale, it is not to be presumed that there accrued much unsatisfied debt in England; but there is little reason to doubt that the short payments of 1820 equal those of 1821; which leaves, provided all former debts were discharged, about three millions and a half rix-dollars, due from the colony to the mother-country. The whole of this arrear has not vanished into air. The merchandize on hand is in considerable quantity. The aggregate of plate, linen, furniture, and other moveables, now collected in every house in the colony, is of great value. The boer has yielded to the force of example, and the very best European furniture is found in the distant farms of South Africa. In these things does the boer now vest any superfluity of rix-dollars; and this is his fund, to be divided, at his death, amongst his children.

The evil appears to be, that the Cape colony is in unusual and harassing distress for remittance, whilst it is in

unbounded enjoyment of all that contributes to the personal comfort of man in society.

The East India Company has, by the courtesy of the place, and by the former devoted habits of the Dutch to all that related to the East Indies, been held in high and distinguished honour. Whether their proceedings and conduct towards the Cape affords to them a just title, may be matter of doubt. Generous and liberal masters elsewhere, their dealings here have been of a different nature. Their paltry retail sales, by vendue, are not guided by demand and supply; but the agent fixes the minimum, and beyond that price the buyer must advance, be it what it may; and the value of tea, which is become an article of first necessity to the boer, is guided by the moderation of the agent. Since the death of Buonaparte, the amount of the India Company's sales must now eventually be remitted in bills on England; during his life, it was expended in the supplies to St. Helena, but it now comes forward again to aggravate the course of exchange, by the biddings against the merchants.

These evils might be compensated if the company were disposed to urge the sale of Cape wines in her India establishments, in the hospitals, or in the army; and to show some disposition of favour towards a colony, from which she has drawn such important advantages, both in peace and war. As it is, her monopoly of the sale of tea, and other things from China, to this place, is highly detrimental, swallowing up the commissariat bills on England, in exchange for a breakfast of dear and ordinary tea, for silks, calico, muslins, and nankeen: nor is it overcharging the picture to assert, that the trade most destructive to the interest of this place, is that of the East India Company from the dominions of China, as now carried on.

The rate of exchange on England appears, as per Appendix I. to have advanced gradually, or suddenly, according as it was affected by the circumstances of the day. The great export of wine in 1817, assisted by that of 1818, and 1819, and by the export of wheat and wine in 1820, operated on external remittance, but its effect was destroyed by the large importation of wheat in 1821-22. The import of rice, wheat, and flour, this year, absolutely required to prevent famine, will create such an excess, to be paid by bills on England, that it sets at a distance all rational hope of

a favourable abatement in the rate of exchange, which is now at a premium of 195 per cent.; and as long as the present amount of Cape paper-currency remains in circulation, and the balance of external payments is so heavy against the colony, any amelioration appears to be hopeless from common causes. If some measure, powerful enough to deliver the colony annually from its growth of wine, be not brought to bear at an early moment, by the British government, the mother-country must lay her account in the loss of a great part of three and a half millions of rix-dollars remaining due. No means will be found, but from an application of the current and future investments for the payment of the past; leaving the new arrivals to take the situation of the old debt. The gradual progress of the Cape in population, both from natural causes, and from settlers still arriving, (for man, like a ship in distress, will seek any port,) requires a continued importation of articles of first necessity and of general consumption, fully equal to the means of remittance; and there is no hope from the savings of the days that are past. The Cape, pampered by British capital conveyed to her in merchandize, has, during these last five years, exceeded the fruits of her own labour and industry, in the expense of houses, equipage, dress, high living, and the enjoyment of foreign luxuries; and, like other spendthrifts, deplores, in a more advanced stage, the disquietude and distress brought on by these earlier follies.

In the view of remitting something to keep up and create fresh credit in England, the merchants eagerly contend at the biddings, by tender, for the commissariat bills. The quantity of rix-dollars in circulation, and the abundance received for a sale of goods, enables a merchant to vie with his competitor, in the number of them offered for each bill of one hundred pounds or more. When the rix

* The truth of this observation has been unfortunately shown by the wrecks, within a month, of two free-traders, homeward bound, the Fame and the Sarah. Cargo saved to a large amount has been sold for exportation, and furnishing means of remittance in produce to England, has lowered the exchange 50 per cent.; and from 200 it has fallen to 150. Allowing 25 per cent. to remain at the Cape for expenses, 75 per cent. will, some months hence, go into the market to buy government bills for the insurers, and again operate on the exchange; but it plainly demonstrates the effect, which an increased export of produce would have on remittance.

dollar paper, cannot be converted, at sight or at date, into money, at the place of its issue, and acts as the medium to purchase bills, which can be so converted in England, there can be no surprize at its depreciation, where so much remains to be remitted; without looking for other causes acting so powerfully, at the same moment. It must not however, be concluded, that the exchange operates in the same excessive manner on all colonial expenses. The counteraction of an over-supply, and the necessity of selling at some price, has reduced European articles below their actual value. Bread is dear from the effect of blight, and the imprudence of the exportation of corn. All other articles of food are at a cheap rate. Cape wine is at less than half its former value; but wine has increased in quantity, within the colony, as fast as the debt to England which it was expected to pay. The distress of trade has lowered the purchase price of land and of houses; and those of fixed certain incomes have found rather an improvement than reduction in their means of living; but the number of these is small compared to the real sufferers. A late circumstance has taken place, which, it is hoped, may, in the course of time, assist in removing the mercantile distress of Cape Town. The order of council, of July 12, 1820, allowed the importation of foreign produce and manufactures, except woollens, cottons, iron, and steel, into the Cape, from nations in amity with Great Britain, provided the same permission was by them given to the Cape trade. The privilege of bonding has been added, to goods coming from the eastward in British ships, and of being exported duty free. The spirit of the British order in council is met here by a government proclamation, extending the right of bonding, without duty, to foreign vessels, provided they export two-thirds of the bonded value in Cape produce, or in goods legally imported and bonded. Already has one ship availed herself of the permission, and for the first time since the war, will Cape produce and wine depart in a foreign ship on the bonding principle.

If Great Britain wisely follows up the order of July 12, 1820, by another, proclaiming Table Bay a real free port, admitting, on bond for transhipment, all the commodities of the world; and the India Company, or the capitalists of India or England, will form a depôt of East India goods, equal and adapted to the supply of the Ame-

rican market, at a reasonable per centage; and more particularly, if the honourable East India Company, taking into their serious consideration the falling state of the Cape, would, in kindness to their old customer, form an extensive depôt of tea; a majority of those American vessels, originally destined for Madras and Bengal, will, it is believed, limit their voyage to the Cape of Good Hope; where, in the case suggested, they would combine with the India trade, the advantage of the tea and China trade, without the risk of a China voyage. These measures would give vent for the increased export and consumption of Cape wine. Twelve thousand five hundred and eighty pipes of wine were exported in the year 1817 to England. The Cape, it has been stated, can more than double that quantity; and whenever an export for twenty-five thousand pipes of wine is found, the Cape will be removed from the state of a poor and needy colony, into a more opulent and punctual paymaster of the manufactures of Great Britain. It will be granted that Cape wine is not of superior quality; but it is wine of strength, and not ill adapted for the American market. Let it be sold at a low price; but let this, the only important produce which can be augmented to almost any quantity, be sold at some price. There are two lines of dealing amongst merchants, either a large return, at a small profit; or a small return at a greater. The nature and quality of the article requires the former to be adopted here; and if it will not produce £15, per pipe, let it produce £10. All Cape duties on the import of brandy, on staves and pipes, and market dues, should be taken off, and every endeavour used to keep down price, and bring Cape wines into export, and into the consumption of ships, attracted by the interchange of commodities in a free port. A relief should be given, as far as relates to the Cape, from those clauses in the East India Trade Acts, prohibiting the import to Great Britain of India goods, in ships under 350 tons. By this clause, the Cape, after having procured goods in ships of its own under 350 tons, is compelled to withhold them from export until a ship arrives in port of above 350 tons.

A Cape ship of 200 tons, more or less, might go into the East India docks; but because the Cape, for the purpose of a beneficial extension of trade, has been included within the limits of the East India Company's charter, is it reason-

able that she should have the boon diminished, and be debarred the right of being her own carrier of the goods when acquired, and of employing her own vessels in the passage to England?

The whole of the Cape trade may be said to pass through Table Bay. Many remarks have been made on the insecurity of Table Bay as a port; but it must be stated, in its defence, that no man of war, since the capture, has been driven on shore by the winds; and of the merchant ships which have been stranded, the greater part were badly found. The Sceptre, which went on shore in the 9th Nov. 1799, is no proof of the insecurity of the bay in winter, as it was stranded in the summer monsoon, when Table Bay is accounted safer than Simon's Bay; but a hurricane will at any season, and in any port, put ships to risk, and even destroy them.* It must be allowed, that the north and north-

* CAPE TOWN, *Saturday, 27th July*, 1822.

It is our painful task to record the most violent gale of wind this colony ever experienced, the effects of which have been most fatal to the shipping in Table Bay. It had been antecedently remarked, that the north-west gales, although very severe, and bringing into the Bay a tremendous and dangerous swell, yet, that they lost much of their terror, from the shortness of their duration;—this remark has not proved just in the present unfortunate instance. On Thursday, the 18th, it was new moon,—the weather changed suddenly with it; it had been remarkably fine for several days, but Friday morning was ushered in with cloud and rain, and with every appearance of a gale coming on; the weather, however, continued in the same state, during the whole of that day;—the following day, Saturday, the gale was very severe,—in the afternoon, the ship *Royal George*, Captain Powditch, last from Van Diemen's Land, went on shore close to the jetty;—at night, the brig *Adriatic*, Captain Rutter, shared the same fate,—as did the Coasting Schooner, *Good Intent*;—the barometer was as low as 29"·50", at two o'clock on Sunday morning; the violence of the wind was then excessive;—and at day-light, on Monday morning, the four following brigs were lying on the beach, between Craig's tower and the castle, viz.—*Olive Branch*, Captain Kind,—*Sun*, Captain Murray,—*Lavinia*, Captain Keith,—and *Leander*, Captain Middleton;—most fortunately, not many lives were lost;—but we have to lament Captain Middleton, of the *Leander*, who was drowned by the upsetting of the boat, in which he had left the wrecked brig. William Brown, seaman, of the *Leander*, met a like fate, as did James Graham, seaman, of the brig *Adriatic*. The ship, *John Palmer*, drove very close to shore, but fortunately brought up, and is at present safe;—the following brigs rode the whole of Monday at single anchor, although the weather was scarcely more moderate, viz. *Brougham*, *Marianne*, *Nelson*, and *Blues*.—The brigs *Arethusa*, *Travis*, and *Antelope*, kept their ground. The gale abated somewhat on Tuesday, but it blew again with astonishing violence, in

west wind in the winter monsoon, during July and August, brings in a heavy sea, and that, if anchors drag, and cables part, the safety of a ship is in extreme hazard; particularly if reliance be placed on a chain cable, which, from some cause or other, frequently snaps asunder in Table Bay.

"The formation of a mole to protect the ships at anchor in Table Bay from the heavy seas, and swell of the north-west monsoon, has been long a point of discussion amongst individuals anxious for the prosperity of the Cape. The plan and sketch, here annexed, are supplied by a civil servant, whose zeal and abilities have been, for many years, exercised most beneficially for the colony, and honourably to himself, in the duties of a high and important station.

The sea, which occasionally rolls into Table Bay during the winter monsoon, has given to this harbour a character highly injurious to the interests of the colony generally, and to those of Cape Town (the principal port) in particular. The bay is not by any means so dangerous as has been represented. Robben Island, although eight miles distant, protects it very considerably, and experience has shown that, in the most severe weather, large vessels, which of course anchor at the greatest distance from the shore, find an outdraft contributing so essentially to their safety, that they frequently ride with their cables slack in the heaviest north-west gales. It is not to be doubted that a mole, similar to those which protect the harbours of the Mediterranean, would render the port of Cape Town equal in safety to any in the universe, as may be seen by inspecting the accompanying sketch.

It may be observed, that the expense of such a measure rendered it chimerical, and that the trade and importance of this place, previous to passing the late acts by which commerce is enlarged, did not justify entering into such a

the night between Tuesday and Wednesday, when rain fell in torrents. As much damage has been done on shore, as in the Bay;—many stores in Cape Town have fallen in, numbers of houses are seriously injured, and in the vicinity of town, the injury individuals have sustained, is to a very great extent: the number of houses and stores seriously damaged, amount to 69.

From Wynberg to Cape Town, there are scarcely any premises which have not suffered, and some most seriously; in the mean time, the latest letters from the eastern districts continue to complain of want of rain, and of the parched state of the soil.—*Cape Town Gazette.*

scheme at the period of time when the naval arsenal was removed to Simon's Town, and all idea of making Table Bay the winter as well as summer port entirely abandoned.

A minute investigation of the circumstances of the place, may dissipate probably the above objections. The depth of water is not considerable, and the distance from the stone quarries of the Lion's Hill favours an opinion of the practicability of the plan at an expense trifling when compared to the benefit that would accrue.

From the stone quarries to the Chavonne battery, there is an inclined plane of not much more than 400 toises; a railway laid for this distance would facilitate the transport of the materials for this construction, requiring nothing additional but being cast into the sea.

The colonial government has always nearly one hundred banditti employed in quarrying at Robben Island, who might be preferably employed in this work, which would require no other expense than that of the railway, and of proper persons to direct an undertaking of such importance. The stone of the quarries is of the best kind, and may be raised in blocks from two to three tons. The Amsterdam battery would afford secure barracks for the men employed on the work; and the excavations, with a very slight degree of labour, might be formed into reservoirs of water for the supply of Green Point, where it is much wanted.

The Chavonne battery would form a tête de pont for the protection of the mole, and a battery at the end of the mole would, with Fort Knock, afford security to the shipping anchored or moored in the inner harbour. This mole would be of the length of a mile and one quarter, and comprise within it depth of water for ships of the line, and frigates. The expense may be computed at one million rix-dollars, which, without asking assistance from England, might be gradually raised in the Cape by debentures bearing an interest of 6 per cent. both principal and interest secured on the port and wharfage dues, now annually producing forty thousand rix-dollars; (and which, for such an object, if judiciously imposed, might be doubled in amount, without unreasonable pressure;) paying the annual interest, and leaving a surplus of thirty thousand rix-dollars for the gradual extinction of the million of capital.

The longitude of Simon's Bay was ascertained by the mean of twenty-eight lunar observations. The timepieces gave the

same longitude exactly upon their arrival from St. Helena, and they again showed the longitude of St. Helena, upon their arrival there from Simon's Bay. It was necessary to ascertain the longitude of Simon's Bay correctly, as the undermentioned places on the coast were chiefly deduced by timepieces from it, by Captain Wauchop, of his Majesty's navy.

	Latitude.	Longitude.
Simon's Bay . . .	34° 9′ South.	18° 22′ 0″ East.
Cape of Good Hope .	34 22	18 23 2
Cape Hanglip . . .	34 26	18 44 18
Cape Agullas . . .	34 48	20 4
River Knysna . . .	34 15 5	23 3 16
Seal Cape, Plattenberg's Bay .	34 5	23 23 15
Cape Recif, Algoa Bay .	34 2 3	25 39 14

And by Wm. Long, *Master of the Colonial Brig Locust.*

Saldanha Bay, entrance .	33 5	17 58
Dassen Island . . .	33 20	18 2 30
Lion's Rump . . .	33 58	18 26
Hout's Bay, entrance . . .	34 6	18 30

By the Rev. J. Fallowes, *Astronomer Royal at the Cape.*

The latitude of Tiger Hill, at the most elevated east point .	33 53 South.

SECTION VI.

Custom-House.

All imports into the Cape are liable to duty. The produce and manufactures of England are rated at three and one quarter per cent. on the invoice price. Foreign goods, and those from the East, are charged with a duty of

ten per cent. on the value, whether brought in a British vessel, or in one of a nation in amity with Great Britain.

The growth of foreign trade, and of that from India, since the acts of parliament and orders in council opening the eastern and foreign commerce, has added greatly to the business of the Cape custom-house.

The abundant importation of eastern produce, so gratifying to the colonial taste, has, through the consumption of an increased number of inhabitants, and a more prevailing indulgence in all classes, added essentially to the payments into this office by the above-mentioned duty, on the direct import in 1821, from India, of the value of 1,572,000 rix-dollars.

The gross receipts of customs in 1821, and of the offices connected with it, amounted to 313,198 rix-dollars 3 schellings, being a greater sum than that produced by any other department, or by the customs at any former time.

There is no credit given at the office to the merchants, and the money received is daily paid into the government bank.

There is a collector and a comptroller of customs, whose titles mark the nature of their functions; both laborious offices; performing the same duties as in London, and other English custom-houses. The cash department, and the general guidance of the office, belongs wholly to the collector; and the statements and accounts seem to fall chiefly into that of the comptroller. The office hours of both are from nine till three daily, with the exception of only nine holidays in the year.

Every act of the collector requires the approbation and signature of the comptroller, so that the attendance of both these officers is daily and constantly required.

The departments consist of collector, comptroller, each with a chief and one second clerk, a warehouse-keeper, tide-surveyor, and a messenger. On the wharf, a chief searcher and clerk, and five tide-waiters.

The collector, comptroller, and chief searcher, are treasury appointments; all the others colonial, and removable by the Cape government.

In Simon's Bay there is a collector, comptroller, and three other officers, acting as clerks, searchers and tide-waiters, all of whom are appointed and removable by the colonial government. There are no fees of any description

received for their own use by the principal or inferior officers of customs; no candle-ends nor cheese-parings—all goes to the colonial government.

SECTION VII.

Port-Office.

This department consists of a port-captain, a deputy-port-captain, a cockswain, and boat's crew, and an officer of health.

Both English and foreign vessels pay two schellings per ton, measurement, for the use of the port, if they land the whole or any part of their cargo; and one schelling per ton if they do not.

Every vessel on coming into harbour is boarded by the deputy port-captain, who on his return communicates in writing the name, nation, and all particulars respecting such arrival, to the secretary's office, to the custom-house, and to other public departments.

It is the duty of the deputy port-captain to point out the proper situation for anchoring and mooring ships as they arrive, so as not to interfere with each other; and to take care that all the regulations of the port are duly observed.

In his first visits to the ships, the port-captain is attended by the health officer, a most important servant of the public. Apprehension and alarm on the subject of small-pox and measles, where there is a slave population so numerous and valuable, is uppermost in the mind of the Cape-Dutch inhabitants, who are the chief proprietors. Some years ago, through want of due caution, the measles were introduced, and 4,000 persons are said to have fallen a prey to that fatal disorder. Latterly, the small-pox was brought by a slave ship, under circumstances, which, if true, are in exact conformity with what might be expected from the cruel and debased mind of the master of a slave ship. A Portugueze ship, legally trading from Mosambique, having a cargo of slaves infected with small-pox, came into Table Bay for refreshment. Government has at all times shown a laudable anxiety to prevent this description of vessel from being supplied with more than necessaries to preserve the unhappy victims of avarice, during their passage to the Brazils. Having received a refusal of something he required, the brute who commanded contrived out of revenge,

by nightly visits to a captured slave ship then in port, to communicate the infection, which, on landing the prize slaves, spread through Cape Town. By the precaution of shutting the barriers against strangers, and by strict quarantine of every infected house, and by universal vaccination, the disorder was subdued, without spreading into the interior, after the loss of about one hundred persons, chiefly slaves.

The arrival of the transports with settlers in 1820, and of two regiments in 1822, under symptoms of measles and small-pox, has afforded another proof of the necessity of a strict maintenance of the port-office establishment; as, on this occasion, the distress, which would have fallen on the inhabitants by the introduction of these dreadful maladies, was averted by the care of the health officer.

The officer of health must be always within call, and prepared to go on board in the calm or in the tempest. He ought to possess conciliatory manners, with a firm mind. It is his duty to overawe the unruly, and to conciliate the more moderate, to an endurance of remaining on board under quarantine, after a long voyage, within a few hundred yards of an inviting shore, themselves in perfect health. He is to show the violent the evil consequences and penalties of resistance to government, and to console the obedient by the hope of being soon released from their watery imprisonment—above all, he is to be watchful and circumspect, and not to be lulled into carelessness, or deceived into an assurance of the healthy state of a ship. He is himself to view all and every thing, for on him rests the care of the public safety.

This important and vital duty is expected to be faithfully performed by some skilful professional gentleman, at an annual salary of six hundred rix-dollars, Cape currency, which are forty-five pounds sterling British money!!! Can this be reckoned in the number of the extravagances of the salaries to the Cape establishment?

SECTION VIII.

Wharf-Master.

This is an office under the control of the customs, of late creation, but loudly called for by the necessity of the case. The public wharf for landing goods was in such a desperate state, that it was unsafe for passengers from the

ships to be put on shore, and heavy merchandize was discharged from the boats upon the wharf with difficulty and danger. A dispute arose whether the wharf was to be repaired by the colonial government or by the naval department, whose guns and stores, landed during the war, had been a principal cause of its decay. Fortunately, the removal of the establishment to Simon's Town settled the question, before the wharf entirely gave way; and the colonial government appointed a wharf-master, whose duty it is to provide for the repairs of the wharf, and to furnish tackling sufficient to hoist upon the quay, or to lower into the boats, packages or casks of any dimensions or weight.

The payment at the wharf for landing or shipping

A horse	5	rix-dollars
Other cattle	1	
Sheep and pigs	¼	
For a pipe or half a ton . .	1	
Half-pipe or other cask .	½	

The wharf duties have been found sufficiently productive to defray the expense of repairs, and to pay the estatablishment. The amount of receipts is paid by the wharf-master weekly to the collector of customs, and by him to the receiver-general.

There is one wharf-master and two clerks, appointed, paid, and removable by the colonial government.

CHAPTER VII.

COLONIAL AUDITOR.—EXPENSES PAID BY ENGLAND.

The duties of this office, when performed with attention and vigilance, are most important, by the control of colonial expense. It is, however, a situation of some delicacy and embarrassment, as occasions may arise in which the wishes of a governor must be contradicted and opposed. A written order from the executive, when produced at home, justifies the obedience of an auditor; but in that case the governor becomes personally liable, if the disbursement is not allowed, which is not an agreeable circumstance to any man in power.

To the colonial auditor are referred monthly the receipts and disbursements of the various establishments of Cape Town, except those of the burgher senate. He examines the vouchers of both payments and receipts, and collates them with the entries in the books of each office. He neither overlooks error, nor passes over an unusual charge, without explanation from the party; and when all is declared correct and regular, he signs the accounts, and having given due notice at the secretary's office, the amount is drawn from the office account at the bank, and paid to the colonial receiver-general.

It belongs to the auditor to prepare an annual report, explanatory of the state of every department in the colony, assigning reasons for any decrease or increase in their receipts or expenditure, and delivering a correct list of contingent and fixed payments and salaries of the establishment. This colonial appropriation-paper is, at the close of every year, delivered to government, and transmitted home, for the information of the secretary of state for the colonial department.

At the end of the year 1821, the revenue and payments were nearly as here quoted; but absolute reliance must not be placed on the statement of an individual, collecting information from different sources, on matters of finance, with most of which he has no immediate personal relation.

Receipts, 1821. From	Rix-Dollars.	Disbursements, 1821.	Rix-Dollars.
Bank	120,019 3	Fixed contingencies	40,869 4
Customs	315,198 3	Unfixed ditto in government houses, lands, offices, buildings, vessels, and supplies	279,668 1
Tithes and transfers	290,130 2		
Vendues	208,346 4		
Land revenue	178,572 1		
Stamps	150,929 7	Commissary for expenditure to armed inhabitants	7,425 4
Sequestrator	31,794 4		
Printing	20,024 5		
Post-office	22,197 5	Expense paid for settlers	41,280 0
Port office—		Hottentot Kraal captain	3t306 5
Cape 11,020 3	13,443 1	Colonial Cavalry	2,132 0
Simon's Town 2,422 6		Cape Corps	100,868 2
Fiscal	3,041 0	Drostdy District Expenses, Salaries for colonial servants, and all other charges	774,358 5
Wine Taster	12,124 6		
Fees paid in from offices	92,688 4		
Commando	7,000 0		
	1,463,510 5		1,249,908 5
The whole surplus revenue of the year 1821 amounted to 213,602 0; very unequal to meet the incidental expenses so constantly pressing on the colonial government.			213,602 0
			1,463,510 5

A grateful public will duly estimate the unshaken perseverance of Mr. Hume, and of other members of parliament, the able and indefatigable advocates of home and colonial retrenchment. Desirable and necessary as œconomy may be, there is a degree of consideration due to the public servants on foreign stations, which zeal should not overlook. Whatever may have been asserted about those colonies, whose civil or military servants are supported by the pay of Great Britain, it must be confessed that much has been inconsiderately said in the House of Commons on the subject of the expenses of the government of the Cape, and of the salaries of the civil servants; and one would suppose that the salary of the governor, of the public servants, and all other Cape expenses were paid by the Treasury of England. So far from drawing upon the funds of Great Britain for this or any other purpose, it cannot be shown that the Cape has ever been assisted by Great Britain in any expense which was purely colonial.

If it be meant that every thing in the shape of surplus revenue, taken from the pockets of the colonist, should be remitted to Great Britain in aid of financial distress, caused by a desperate and protracted war; and that colonial improvement is to be starved for that purpose, it certainly would become a subject of fair discussion, whether the Cape could in justice be expected to contribute to the debt of that war, of which she was in no manner the cause.

The colony of the Cape of Good Hope was neither founded nor nurtured by English people, nor at English expense.

The salaries of the civil servants in any of the offices of real business do not go beyond a reasonable compensation. In many of them, they are barely sufficient; and in all, those of the chief and other clerks are shamefully inadequate to the services performed, and to the responsibility incurred; and in common justice to a very deserving part of the community, ought to have been long since augmented.

The Cape is the only place within the limits of the East India Company's charter where the civil servants are in the predicament of incurring some of the Indian expenses upon European pay.

An unaccountable degree of erroneous reasoning has crept into the public mind, on the subject of the salary of the governor and captain general of the Cape of Good Hope.

If any of the speakers or writers had partaken of the hospitality of this half-way house to the east, and having been made acquainted with the increased rate of living on a spot open to incessant visitors, from all parts of the world, would calculate the expenses necessary to maintain a splendour and dignity befitting the high office, they would allow, that only a small surplus could remain; very insufficient to remunerate the services of any individual of rank and abilities, performing the duties of governor; and consenting to live eight thousand miles from his native country.

There are only three situations in the colony, where the salaries exceed one thousand pounds per annum:—that of governor, of secretary, and deputy-secretary. There are four other of one thousand pounds per annum:—a colonial auditor, a colonial paymaster, a collector, and a comptroller of customs. To fill all these six situations, (putting the governor out of the question,) individuals are appointed by the English government, who, after the longest period of service, are neither entitled to the benefit of a superannuation fund, nor to half-pay or pension; and when worn out, or incapacitated by sickness, have only to retire to the little savings of their œconomy.

With regard to the remaining departments, if considered to be necessary or useful parts of the Cape government, the salaries are invariably mean and insufficient.

In the magistracy, due dignity of station and deportment is expected to be preserved; but can it be fitly maintained by a chief-justice on a salary of seven hundred pounds per annum?

Every appointment at the Cape is executed in person. Here are no principals and deputies—the one, an absentee, to receive pay, the other to do the work: but in every office, whatever is to be done, be it more or less, is actually transacted by the party: nor are there any of those appointments called sinecures, although it will have been seen in former chapters, that there exist some establishments, where little is to be executed; and others, where it might be more advantageous to the public, that every thing was omitted.

It would ill become a servant of one department, to under-rate the duties of those of another; but perhaps it may appear, that, after the death or resignation of the present occupants, the consolidation of some offices with

others, and the total annihilation of more than one, would relieve government from an unnecessary and cumbrous load of petty departments; and, by a reduction of expense, be acceptable to the people.

That which has been here suggested, on the general subject of salaries, is not collected from report, but arises from a personal conviction of the injustice and impracticability of reducing them, so as to correspond with any expectation of useful œconomy; and the retrenchment of salary is proposed in England, not as a fund for the formation and improvement of roads, of bridges, of kloofs; for a wharf or a mole; for the establishment of churches; for an abatement of taxes; for relieving the boers, by a reduction of quit-rents pressing much too hard, and almost to distress, on a very industrious set of people; or indeed for any colonial purpose; but to augment the finances of Great Britain. A celebrated lawyer left his fortune to assist in paying off the national debt; but Lord Mansfield set aside the will, observing, that he might just as well have bequeathed his full-bottomed wig to stop the centre arch of Westminster-bridge.

With every testimony of respect for the advocates of retrenchment, to whom the country feels great obligation, it may be asserted, that, as far as relates to the Cape, their speeches are unfair and unfounded; and that there is no just ground for charging the Cape with waste or extravagance in the salaries of her servants, disabling her from discharging what is due from a colony to her now mother-country.

Since the war, which ended in 1814, Great Britain has stationed a changeable force at the Cape, sufficient for a peace-defence. It consists of one company of artillery, half an one of engineers, and three regiments, which go to India in turn, after being seasoned for that climate, by a prior residence in this colony. Two of the regiments of the line have lately been sent to Bengal and Madras; and the third, having formerly gone from the Cape to India, and then back to the Cape, is ultimately returned to Europe; and three regiments have been landed to take their place. Do the advocates of colonial retrenchment consider the Cape bound to defray the expenses of British regiments, halting on their way to protect the mighty eastern empire of England?

The bills of the commissary of the army, which include

the expenses of the navy on the station, and those refitting on their passage, are the only charges which England defrays. The pay and allowances for each of the three infantry regiments of the line, may be computed at . . . . . £36,000 per annum

3

108,000

and that of the company of artillery and half-company of engineers, at . . 18,000

making a total of £126,000

to be drawn for this service on the lords of the treasury. £162,869 were drawn in 1821, being a surplus of £36,869 beyond the cost of the British forces. After allowing a part for the naval expenses, the remainder probably was expended by the commissary, in the purchase of rations delivered to the settlers, to prevent absolute starvation: but it is not to be argued that the Cape is to provide, at her own expense, a maintenance for 4,000 British subjects, thrown upon her shore; when no part of the sums, voted by parliament for their aid, ever reached the Cape treasury. The sum of £126,000 is that which alone can be stated as payment, on the Cape account; even presuming, (which is not granted,) that the colony is bound to pay the British army, under the circumstances in which the regiments are here placed. Against this expense, paid by England in consequence of the occupation of the Cape, it is fair to take credit for the pecuniary advantage England receives in return, and for the disbursement which the Cape is now called upon to make, in consequence of part of the English population being thrust upon her, causing an expense which belongs wholly to herself.

In taking the statement of 1821, to the duties paid at home on the import of Cape produce, is also to be added a profit of 10 per cent. on the exports from Great Britain to the Cape; but not taking into account her profit of labour, &c. incidental to such an export, which is also wholly gained by Great Britain.

	Rdrs.
The British produce, imported into the Cape, in 1821, amounts to .	3,778,440
The foreign, from England . . .	576,590
Making a total of	4,355,030

			l.	*s.*	*d.*
Ten per cent. on the above sum			34,840	5	0
Direct duties on Cape articles in London			77,982	2	3
Expenses for settlers paid by the colony for two years	£24,363	0			
One year, 1821,	12,181	10			
			12,181	10	0
Permanent annual expense of the location			1,830	5	7
			£126,834	2	10

besides an unsettled demand of the commissariat to a considerable amount, to be also paid by the colony.

From this statement, it appears that the amount expended on the military stationed at the Cape is made good to Great Britain; and in addition, the Cape maintains four companies of infantry, and two troops of cavalry, fully equipped, encamped and stationed on the frontier, to protect Albany and the other locations from the incursions of the Kaffers. The expense of this armament amounted, in 1821, to £19,138 4*s.* 9*d.*; and is a sum paid by colonial taxation to guard British interests. Adding this to the sum before quoted, the total amounts to £145,972 7*s.* 7*d.*; being a surplus of £19,138 4*s.* 9*d.* beyond the sum expended by the mother-country.

Of these pecuniary advantages received by Great Britain, and of the expenses to the settlers, paid on her account by the Cape, there will, probably, be little increase of the one, or abatement of the other, for some years. It is, however, possible that the first expense of settlers, being for the year 1821 about £12,000, might be relieved, in a degree, by their having a good harvest; but it is surely impossible to look for any thing favourable from the present state of things in the newly-settled district of Albany. When Great Britain acquired possession of the Cape, it was not in the expectation of commercial advantages, or of her contributing to the expenses of the nation; but as a military station: the advanced guard of her Indian possessions. The advantages resulting from this occupancy, in time of war, so ably and prophetically announced by

London. Published by John Murray.

Mr. Barrow, in the second book of his second volume of Travels in South Africa, have been more than realized, and especially throughout the last war. Whilst the nation enjoys such fortunate results, it is not courteous or correct, that the Cape should be brought forward in parliament, however plausibly or eloquently, as an instance of the perseverance of ministers in a wasteful colonial expenditure; or that she should be held out as disabled, by unnecessary and extravagant establishments, from relieving the expense of the mother-country, were there any well-founded claim for her so doing.

CHAPTER VIII.

CAPE TOWN.—MANNERS, CUSTOMS, AND HABITS OF THE PEOPLE.

At the close of the month of September, Table Bay is free from the prevalence of north-west gales, and the heavy rains have ceased. The verdure of the Lion's Hill, and of the luxuriant crops of oats and barley along its base, affords pleasure to the eye, which has rested so long on the waters. The plain, enamelled with flowering bulbous plants of every colour of the rainbow, variegating the very margin of the bay, adorned with neat and elegant villas, and the singular appearance of the Table Mountain, combine to delight a stranger on his arrival, and to predispose his mind to receive the most favourable impressions. In this disposition he lands, and traversing with alacrity the grand parade, inferior only to those of Lisle and Brussels, and rejoiced at once more resuming the use of his legs on dry ground, he is conducted to some fashionable boarding-house, where he must be left to recover from the pleasures of his new situation.

Cape Town, the capital, and the only town at present of any great extent within the colony, is bounded on the west, the south, and south-east, by the Lion and Table Mountains, and by the Devil's Hill; on its northern side, by the bay,

and on its eastern, by fortified lines of defence.* The houses and gardens in the outskirts, and the town itself, occupy a space of nearly 1,000 acres within the boundaries. Through the narrowest streets two carriages may pass; and the main streets, which are much wider, trend from the north-west to the south, crossed at right angles by others from the sea to the Kloof, which runs between the Lion's Head and Table Mountain. From this Kloof there is a bird's-eye view of the bay and town, which, from its regularity and neatness, appears to great advantage. The houses, flat-roofed, and chiefly white, with green windows, are spacious and convenient, having an elevated terrace, here called a stoep, in front, and small gardens behind, usually with a treillage clothed with vines. The private gardens between Cape Town and the mountains, from which the inhabitants are plentifully supplied with fruit and legumes, are of exquisite beauty; and the garden-houses are the favourite abode of the Cape-Dutch inhabitants.

The public buildings consist of the castle, the great barrack, the granary, the custom-house, commercial-hall, town and district jail, the Calvinist and Lutheran churches, and the colonial building, including, most conveniently, within its walls, the secretary's office, that of the fiscal, the bank, the orphan-chamber, the sequestrator's-office, the hall of the court of justice, the public library, and, in fact, all the other offices, except that of the burgher senate, who are in possession of the stad or town-house.

The commercial Exchange, a large and a handsome building, built by subscription, stands on the western extremity of the parade. The first stone was laid, by Lord C. H. Somerset, the governor, about the time when Cape wine was delivered by the wine boer to the merchant for the price of 200 rix-dollars per legger of 152 gallons, and by the merchant it was exported, and sold in London for forty pounds sterling per pipe of 110 gallons. The commercial room became too small for the exportation of growing wealth —the frog expected to swell to the size of the ox. At that moment no plan could be too magnificent for the rising

* The Table Mountain is of the height of 3,582 feet. The path up to the Table is not very difficult, and ladies have occasionally adventured thither. A wager was lately made by Dr. Cathcart, of the 38th regiment, that he would ride his horse to the summit, and return in the same manner. He accomplished it near the Orange Grove, on the south side of the mountain.

self-importance of Cape merchants, and the Exchange was erected on a scale ridiculous if compared to the required purposes. However personally respectable many of this class of merchants may be, the nature of their trade is retail. The Honourable East India Company sell a single case of tea, two pots of ginger, and five pieces of calico or other goods. If such be the practice of these once imperial merchants, what can be expected from the minor traders? all of whom take out a retail license, and dispose of their goods to an individual or to a re-retailer by the piece or the pair. Commercial individuals, however, whether dealers in wholesale or retail, who in the year 1821 received imports exceeding the sum of six millions of rix-dollars, cannot be considered insignificant. A retail way of sale appears to be the occupation of a little mind; yet there are not wanting at the Cape mercantile men of capacity and of generous feeling. Taken as a whole, the class is respectable and respected. The present state of exchange on England would, to a hasty observer, be decisive of the ruin of a merchant on remittance of the proceeds of his goods to England; but it does not appear, that the exchange on England, which reduces a rix-dollar, issued at four shillings sterling, and current at eight Dutch schellings in many colonial purchases, to one shilling and sixpence payable in England, has operated to reduce the personal habits and expenses, or even the external appearance of the generality of Cape merchants. Where, and on whom this depreciation in the remittance of proceeds, arising from the sale of a large stock on hand, is to fall, does not as yet show itself. In the mean time, every luxury of the table, of company, of establishment, horses and carriages, is in full force. Many, who were content in England, when issuing from an upper story, to be permitted to indulge on a Sunday upon a hired hack, enjoy at the Cape the almost daily pleasure of their own saddle-horse, and their curricle or barouche, occasionally. If all this proceeds from the emoluments of trade, the merchants of the Cape have no cause of complaint. Probably the debasement of the currency falls heaviest on the English exporter, to whom many of the gentlemen, called Cape merchants, are merely agents. It has been said, that the commercial Exchange was about to be let for subscription assemblies, and that Terpsichore and the Graces are to drive Commerce from her throne.

Others have stated, that it is to be purchased for an English church; and although the money changers were driven from the Temple, and accused of making it a den of thieves, it is nowhere written that the reverse might not take place, and that a den of thieves, if it existed, might not become a very holy temple.

The value of the subscription shares to this building has fallen to one-half of the original cost. If the hopes of the proprietors are realized, and the Cape becomes a free port, her merchants will rise into importance, and the commercial exchange may become of consequence, as the scene of exchanges, re-exchanges, purchases, sales, and speculations, between nations trading to the east: the Cape will then be placed in that state, with regard to eastern trade and general commerce, to which her geographical situation would long since have called her, if uncontrolled by the system of the European powers, and especially of England, with whom all the beneficial results of her prosperity would finally settle.

Buying and selling, which, on the most enlarged scale, are in some parts of Europe considered to degrade a gentleman, are held highly honourable by the Cape-Dutch. On the address of a letter to an Englishman, after the word esquire, they sometimes add, by way of compliment, the appellation koopman (or merchant) as the superlative distinction. Smouching, which here is an appropriate word, meaning buying an article, and selling it again at profit, is practised by all the Cape-Dutch, except a few of the highest class; and not by them forborne from any idea of degradation, but from being fully engaged in other pursuits; and it is not bad policy to account that to be honourable, which all are in the habit of doing. Female slaves parade the town, the neighbouring villages, and country houses, carrying upon their heads, and in the baskets of an attendant man slave, an assortment of every article of dress worn by females, with which they supply the purchasers at nearly the same rate as in Cape Town. The lady owner of the slave girl, when she returns home at night from a party or a ball, compares the unsold goods and the rix-dollars she receives from her pedlar, with what was sent for sale in the morning, and gives out the merchandize for the next day's perambulation. There have been instances of chastisement inflicted on the slave, if every thing is brought back unsold, on the presumption, that following

her own pursuits, she has neglected the interests of her mistress. By this, and by buying an article, when cheap, at one vendue sale, and acquiring a profit by a resale at another vendue, many families, if not wholly maintained, are greatly assisted.

Leaving the commercial Exchange, the heeregracht (Anglicè the gentlemen's ditch) presents itself, leading towards the public offices and the government gardens. In this street, once the residence of the best Cape families, but now of English shopkeepers, is the Subscription or Society-House; a building appropriated by the proprietors for the accommodation of the town. Here are billiard and card rooms, and a ball room, where, during the winter, the assemblies are usually held. There are also, what are called in Europe, coffee-rooms, where stale newspapers and pamphlets are to be read. The subscription amounts to nine rix-dollars per quarter for the coffee-room, and a limited sum for the balls; five dollars are paid by a recommended stranger, landing and staying not more than a month. The subscribers to the rooms are numerous, but the newspapers and pamphlets are meanly and shabbily supplied. The proprietors are moderate and generous enough to content themselves with only requiring the managers of these subscription-rooms to pay for all the repairs, decorations, and expenses of the house, and a dividend to themselves of 10 per cent. on each share. The charm of the society house lies in its situation, so prime for gossip, being in the centre of the heeregracht, traversed by every one going to the parade, to the government offices, to the custom-house, or to the wharf; so that, between the hours of eleven and five, almost every one may be seen from the door of this house. Physicians, lawyers, civil servants, military officers, merchants and gentlemen from India, congregate during the whole morning. Early in the day some one or two regular prosers occupy the green seats in front, and unless, like Ulysses and his companions, they who pass have the precaution to put wax into their ears, or to bind themselves to the mast, they are invariably drawn for a time into the magic circle of the siren. The talk commences, and that which is, or is not, being reported, gains currency for the day. A gross untruth on any subject, deceiving the hearer, and circulated from the spot, for the amusement of the inventor, is called "shaving," and the dupe, being shaved himself, wanders

through the town to shave others. If the astronomer stated that he had discovered a comet which would shortly be visible, the first shaver adds, that the astronomer declared, that the comet would in all probability be so near, as to melt all the icebergs at the antarctic circle; and the second shaver adds, that, after the comet had so done, the tail would, in its progress, come in contact with the top of Table Mountain.

If the deceit was confined merely to matters of this kind, it would be even then highly blameable, as it creates an habitual disregard of facts, and lessens the estimation and the practice of adhering to truth: but the peace and happiness of individuals are frequently invaded; credit impaired, and society distracted, by the circulation of base and unfounded reports.

Another knot of orators appeared to be forming a few doors below, on the green bench of a confectioner's shop; but opposition is poor, and the sweet smell of what was going on within, being too trying for their pockets, they coalesced in the old spot.

In one of Pilpay's fables, it is told, that a king, dispirited and fanciful, convinced that all remedies were useless, gave himself up to despair. His physician made a ball of copper, and presenting it, assured him that it was compounded of herbs and minerals of such rare virtue, that it would insinuate itself into the frame, and work a perfect cure, provided the patient persisted in throwing it about daily for a few hours. The king obeyed, a thing hardly to be effected, and in a few months was freed from his distemper by exercise, which composed the whole of the vegetable and mineral virtue. If the physician of the Cape, whose word is law with the Indians, would prescribe the daily use of this ball for a few hours on the parade, he would confer a triple obligation, by giving occupation to the idle, restoring the hypochondriacal Indian to health, and removing a nuisance from the heeregracht. Every lady, who passes through this street to her visits or her occupation, runs the gauntlet of these acute heeregracht observers. The fashionable shop for ladies' dress unfortunately is situated at the very door of the society house. Ill luck to the poor girl, who, as she turns the corner, discovers a newly created fracture in her stocking, between the shoe and the bottom of the petticoat. Nothing escapes the close investigation of these idlers, and although no word is

said, the titter and the laugh draw forth a profusion of blushes.

Such a place as the society-house door would, in England or Ireland, draw around it a never ceasing swarm of importunate beggars; but here a beggar is unknown, save one, who, on the Wynberg road, like Lazarus, lieth at the rich man's gate. Blind and old, he possibly may be led there by daily kindness, in order to enjoy the warmth of that sun, of whose blessed light he can no more hope to partake.

Within the building containing the public offices, which is beyond the society-house, at the top of the heeregracht, is situated the secretary's office, to which a stranger must address himself on his arrival and departure from the colony, and produce the necessary testimonials of himself, and securities, if required. This is the cornucopiæ, whence all favours are distributed. Behind it, on the same line, is the Bank; probably the only one in the world from whose coffers not one atom of specie of any kind goes into circulation. Here sit the directors, paying all demands, and issuing the necessary funds, in paper rix-dollars. On the other side of the building are the offices of the three fiscals, Minos, Æacus and Rhadamanthus; and beyond them the post-office, whence fame reports to the four quarters of the world. In the centre of the area behind, there is a spacious court of justice, and, as you pass on to the public library, and hear the unharmonious harangues of advocates, declaiming vehemently in the Dutch language, the mind is almost deceived into a belief, that they are arguing for truth, and not for pay.

There is a public colonial library, lately erected by government, and handsomely fitted up, both in point of taste and utility. It consists of two spacious library rooms, with apartments and apparatus for chemical experiments. The plan and arrangements are excellent. It has been ingrafted on the Dessinian library, heretofore under the management of the ministers of the Calvinist church. Mr. Jaachim Nicolaas Van Dessin was born in Germany, and having emigrated to the Cape about the middle of the eighteenth century, became secretary to the orphan chamber. Dessin was a tolerably well educated man, fond of society, and, being of lively, entertaining manners, became a welcome

guest in all parties. Collecting of books was his favourite pursuit; but he is said not to have been a man of science and literature; and it must have been by extraordinary diligence, that he was enabled to bring together so many valuable publications, and to form such a library in Cape Town. Detraction has published, that, at a time of great mortality, when sales of the property of the dead and of the distressed were held in every part of the town, Mr. Dessin constantly attended, and purchased at a low price the books on sale; but surely, when any man wishes to make a collection for the benefit of the public, it is no disreputable circumstance to do so as cheaply as possible, and thus enable himself to increase the collection, which he means to bestow. At his death he bequeathed a small sum of money in trust for the gradual increase of the library; and his object has been faithfully fulfilled by the trustees, who have added many modern publications. Mr. Dessin died unmarried; and by the manumission of his slaves, afforded proof, that, whilst he had endeavoured during life to add to the knowledge and improvement of others, he had not forgotten to direct his own conduct in the paths of benevolence and humanity. The collection thus originally formed, has been greatly increased, by fines on small offences applied to the purpose, by books presented through the good wishes, or by the vanity, of recorded donors, and by the liberality of the colonial government. The library already boasts possession of the best ancient, and most recent modern publications, in religion, in the classics, in history, poetry, geography, chemistry and political œconomy; a most ample collection of essays, of voyages and travels; and dictionaries of all ages and languages. The thing that appears to be chiefly wanting, which Mr. Dessin could not bequeath, is a collection of readers; for reading is not an African passion.

In the other public buildings, not noticed, there is little to be remarked. The Calvinist or reformed established church of the Cape-Dutch is a handsome edifice, capacious and appropriate. It is ornamented by the escutcheons, armorial bearings and epitaphs of dignitaries of the Dutch church and state; but by the late death of Baron Van Reede Van Oudtshoorn, there is no one individual member of titled Dutch nobility now left at the Cape.

The Lutheran church at the top of Strand Street is greatly admired for its elegance, and bears away the palm from all other colonial buildings.

From the church it is a natural transition to education, the most important feature in a rising colony. The prospect is not cheering, although there is a colonial establishment for classical and school education, having the first colonial chaplain as rector gymnasius, or principal master, with a salary of 1,600 rix-dollars per annum, and a monthly payment by the parents, of fifteen rix-dollars for each day-scholar. Eminent for a correct and dignified discharge of his duty, when in the desk or the pulpit; he is in talents more than equal to the direction of a school education. But the very excellence of a man's qualifications for the church, and the regular performance of its duties, incapacitates him for being a schoolmaster at the same period of time. The religious engagements command one day in every seven; and the addition of the previous necessary preparation withdraws too large a portion of time from that unceasing, and uniform attention, which the education of youth requires, and without which, progress cannot be attained. A schoolmaster, who fulfils his duties, can be only a schoolmaster. The military chaplain also, with equal qualifications, takes pupils, and by the efforts of these two reverend gentlemen, doubtless more will be effected in point of instruction than heretofore. To place education on a sound and growing footing at the Cape, and to induce the Cape-Dutch to adopt the English system, or, to express it more properly, to force them to receive any education at all, an academy having the graduate of a British university for its master, unconnected with the church as a pastor, might be founded to advantage. No young Cape-Dutch gentleman should be appointed to an official situation in any of the departments of government, who had not been for a certain time at the academy. The order of Lord Howden might then be strictly enforced, by which the student is compelled, before he takes office, correctly to write, and fluently to speak, the English language.* This would work sensible improvement in the education and in the manners of a class greatly deficient in both particulars. There is no place in which the benefit arising from good schools would be more perceptibly felt.

* See Appendix N.

The climate of India, unfavourable to children, compels parents to send them at a very early age to England, and to incur an enormous expense, and the separation of many years. If there were proper schools or academies at the Cape, with masters duly qualified, there are few parents who would not preferably send their children to a place within their reach, and to a climate, to which, in case of illness, they might probably resort themselves, before they finally left the east. There are a few day-schools for female children; but this part of education is also deplorably neglected. The attention of a virtuous and well educated mother goes far in the instruction of a daughter, in all that is useful, and much that is ornamental in private life; so that the establishment of girls schools is not so absolutely necessary; but if European masters and governesses, of character and of fit qualifications, could be induced to settle in the colony, a better taste and greater anxiety for female education would be generally instilled into the Cape-Dutch inhabitants.

The society of Cape Town is composed of various materials—divines of different tenets, medical men with and without diplomas, civil servants of the various departments, naval and military officers, Cape-Dutch advocates, Cape-Dutch inhabitants, and civil and military servants of the East India Company, form the aggregate of the list. Upon the English part of the society, it is unnecessary to dilate. An Englishman, from the Orkneys to New South Wales, is the same unbending creature. He accommodates himself, with difficulty, to the manners of other countries; and nothing can be right or proper, that is not English, and to which he is unaccustomed. The Scotch and Irish mix more readily, and sensibly, with the members of a foreign society, and are more easily reconciled to its customs. In considering this subject, the death of one, who once filled so large a space in this colony, sorrowfully presents itself to memory—Henry Alexander, colonial secretary, a man of the most eccentric manners, possessing extensive benevolence of heart, accompanied by the highest endowments of the head. There was neither art nor science of which he had not acquired some knowledge, and in many he was eminently skilled. His powers of reasoning were strong, impressive and overcoming, for he had the taste, sense and learning of former ages, to bring to his aid in argument, (in which he delighted,) and his memory was so perfect, that

he could at once command all that he had ever heard or read. Fond of domestic happiness, and of company, he lived in the constant interchange of good offices and civilities with the most respectable English and Cape-Dutch families; and feeling a kind disposition towards all men of character, and seeking information wherever it could be found, individually, he associated with those of every rank and station of life; ardent, social, liberal, kind and courteous, such was the man, whom the Cape deplores.

The Indian visitors exceed every other single class in number, as much as they surpass in talent. The institution of a college in Calcutta, and the more modern one of Haileybury, in both of which these gentlemen kept their terms, and attended the lectures of professors, and their subsequent examination in classics and mathematics, force on them, however idly disposed, a distinguished education. The climate of India, and the necessity of avoiding the sun, compel a continuation of literary pursuits. After his arrival in India, a writer, unless he be a mere trifler, advances by gradual steps into situations of trust and importance. In a few years, the collection of the revenue, the government of a district, or some other important object, is committed to his care. His thoughts become engaged on weighty concerns; his understanding is exercised, and the energies of his mind are called forth; and when he visits the Cape, he brings with him larger intellectual means of contributing to social intercourse than most other men possess.

The Indian visitors are accused of selfish feelings; but where is the instance in which they do not subscribe to the general amusements of the place? or, where is the individual distress to which they do not generously contribute? On a decay of health, the Indians usually resort to the Cape, before they are reduced to the absolute necessity of abandoning their post and going to Europe. Many dreadful victims to Indian sun are seen here; for hope strengthened by interest beguiles men to remain in India too long, when, by an earlier arrival, this health-giving climate might have worked a cure. The majority of invalids, under that best of physicians air and exercise, soon regain strength and vigour, sufficient to partake of the sports of the field, and occasionally to gain the brush at the end of the fox chase. These gentlemen are daily fixtures in the circle of the society door. Men who have been so much confined within

the house, are excusable for keeping out of it when they have the opportunity; and the judge and magistrate, who daily, when at his station, sits from morning to evening, hearing causes in Cutcherry, has a claim to the indulgence of complete idleness—it is the fallow field of the body and mind. In coming to the Cape for health, a civil servant loses one-third of his salary; if he remains lingering for any period, and ultimately dies, the whole of his arrears is forfeited.

The government garden, called in the Dutch time the Company's Garden, occupies a space from the top of the heeregracht to the road which leads to the Table Mountain, and on the right to the Kloof. The centre walk, which is wide and of the length of about one mile, is carried through an avenue of spreading oaks, beautifully green in the spring months of August and September. At that season, although the sun be bright, the air is cool and elastic, and the blossoms, bulbs and flowers, delight the eye. Upon Sunday, when the military bands continue to play their most lively tunes and airs, it would seem to be fairy land, were it not that the moving figures are mostly of a colour not described to be that of a fairy.

The scene is interesting, and the walk fashionable, and there is a pleasurable feeling and freshness in the spring atmosphere of this delicious climate, indescribable to a stranger. One part of this garden was, in the Dutch time, reserved for curious plants, bulbs and shrubs, interesting to the botanist; and in another part, vegetables were grown for the supply of the Batavian ships refreshing at this port on their passage. The whole has now merged into a private garden for the governor, and the public is excluded from every part, except the grand walk. A menagerie, the interesting appendage of eastern power and magnificence, still remains; but the spirit is gone; for there are only two or three lions, a Bengal tiger, and the panther and hyæna of the Cape. It is to be regretted that this establishment has been suffered to fall into insignificance. There is an interest and feeling peculiar to itself in the view of a well stocked menagerie, which is the triumph of man over the tyrants of the air and of the forest. There was a tolerable good collection of living and dead animals and birds in the museum of Mr. Villete, a naturalist of the Cape; but they were lately purchased by the commander of the Fairlie, and

shipped for London, where they will be an acceptable object to the curious. Some of the stuffed antelopes are rare, and of great beauty. The government house is situated about half-way up the garden, and is built in the Dutch style, with its portico and fountains (jets d'eau). It is cool in the spring, and not inconvenient for the purposes of state, or for the necessary parade and arrangements of a public day. But the vicinity of Table Mountain, and, the reflection from that immense mass of stone, throws upon this house in summer, as it does throughout Cape Town, a burning heat by day, from which none recover until the cool and early hours of the next morning.

This abode might be thought handsome for a high and mighty mercantile body, but is not on a scale becoming the representative of the British King, on the outwork of his eastern empire. It is also considerably out of repair. Beyond the government garden, towards the Kloof, are the house and celebrated gardens of Mr. Zorn, called Leeuwenhof. Here is a commanding view of the bay, of Cape Town, and of the intervening gardens, which are productive and beautifully arranged; and to the eye of a Cape-Dutch gentleman, the looking forward to the Rix-dollar is not the worst part of the prospect.

Leeuwenhof, or Lion's Den, is what in England would be called a good estate, yielding to its owner ample means of living like a gentleman. The rents arise from the daily sale of every description of fruit and vegetables to the population of Cape Town; this is done to a great extent by slave boys, who go with two large baskets twice a-day, backwards and forwards, filled with whatever is seasonable, from the garden, and with eggs and milk from the farm. From some gardens five or six slaves are constantly so engaged, and, at particular seasons, each will bring home twenty or thirty rix-dollars per day.

Between Mr. Zorn's and the Table Mountain, Oranje-zigt, the house, gardens, and vineyards of Mr. M. Van Breda are conspicuous. He is the most experimental horticulturist of the Cape. His gardens supplied the naval establishment with vegetables, but they are now vineyards, except a part reserved for the curious and useful plants of the east and of other countries. Here may be seen the coffee tree in vigour: it is said to bear a sufficiency of coffee berries for the parlour use of the family, and that the

flavour is excellent. This may be a matter of family taste, in which all might not agree; but any stranger may observe that the tree is healthy, and the coffee berries perfect and abundant.

The beauty of the heaths, bulbs, and flowers of the Cape is universally acknowledged; yet, as nature is said to divide her favours, she has generally denied to them the sweetness so prodigally bestowed on those which adorn the British gardens. It is a common saying in South Africa, that flowers have no smell, rivers no fish, and birds no song. Such, however, as the flowers are, they are eagerly sought after by the British florist, and are not thought unworthy of a royal conservatory; and the beautiful plumage of the birds makes them an object of desire to the ornithologist. In number, birds are remarkably few, and it is matter of surprize to a traveller to observe, how little of this description of animated nature presents itself to his view—but there are no hedges to afford food and shelter. And as to fish, it is a matter of no surprize, that rivers which frequently are without water should be generally without fish. There usually appears in persons newly arrived, a degree of fear on the subject of snakes. Snakes are numerous, and some are of the length of eight or ten feet; but they decrease as cultivation advances, and are not generally seen in gardens.

The situation of Oranjezigt (or Orange View) is striking: it has a more extended prospect of the country, of the town, and the bay, than Leeuwenhof, and forms a more distinguished object. Mr. Van Breda distributes with generosity the rare plants which he collects, and is courteous to the visitors of his gardens. Desirous of profiting by the improvements of others, he inquires into the practice of all nations, in whatever regards his own particular pursuit, and politely imparts all the information within his knowledge.

This gentleman, in community with another, possesses a large tract of sheep-walk over the mountains, near the eastern coast, on which he maintains the most numerous flock of Merino sheep in the colony, together with an excellent stud of breeding mares and horses of the English race.

Returning to Cape Town, you may pass the great barrack, heretofore the stores of the Dutch East India Company: it is a large, solid, and convenient building, having

lodging for 2,000 men, and remains a magnificent monument of the splendour of the Batavian establishment.

The stad, or town-house, is situated in the green-market, nearly the centre of Cape Town. This building has a good appearance, rising by a flight of steps, with a portico, and is occupied by the burgher senate, in the fulfilment of its duties. This is the place for holding the senatus consultum, and here the taxes are received. The town fire-engines are secured in the stad court; and in case of fire, even of a chimney, the bell of the stad-house and all the church bells are tolled. The constables of the night meet and assemble here, and the coolies of the day stand on the steps for hire.

There is no part of the town regulations under the burgher senate's control worse managed than the regulations of coolies, except it be that of the boatmen. These latter seem to be under no control, and make a demand according to pleasure; and, if it be not complied with, however unreasonable and exorbitant, the individual may lose his passage whilst he seeks redress.

The part of the square in front of the stad-house is used for a green-market, abounding in every description of vegetable of the season, brought for sale. At a very early hour the diligent buyers flock to the spot, and complete their daily purchase; the lazy take up with what is left, if required by them, before the second supply in the afternoon.

On a line with the front of the stad-house, descending towards the sea, close on the shore, is the fish-market, abundant and cheap: ten pounds or more of fish, of the common sort, may often be purchased for two schellings (sixpence sterling), and of the best, for four schellings.

The supply of fish on some days is immense. The hottentot, jacob evert, elft, hake or stockfish, the king klipfish, the steen brazen, and the stompneus, are all of excellent quality. The stockfish is called the earthquake-fish, from not having made its appearance in the bay until the year of that event. It is a remarkable circumstance, that the red stompneus rarely, and the red roman never, (though the chief fish of Simon's Bay,) pass the Cape point into the waters of Table Bay. In the season, or months of July and August, there are boat loads of snoek caught daily. These fish are a great article of the food of slaves when dried; and, at the best catching time, two snoeks of ten

pounds each, are frequently sold together for three penny pieces. They are caught by the hook and line. In fine weather the boats start before daylight for the fishing ground, manned by four or six fishermen, who are shareholders in the catch, and, after deducting for the boat owner, make equal distribution, whether the individual may have had more or fewer on his hooks: they return about two in the afternoon. A species of grey mullet, a fish about twice as large as a herring, is taken in nets. A man sits on a rock or the shore to observe the shoal, and the net is then drawn to inclose them. The quantity taken in the months of October and November is prodigious; they are chiefly salted, and purchased by the boers for their slaves. Night nets are set occasionally for the generality of fish, but not many are so taken, if compared with the hook. In the Table Bay sharks abound: they are troublesome to the fishermen, rising at the fish when caught by the hook, and are destructive to the nets, when they get entangled therein. Few fish are found in the rivers, on the Cape side of the mountains, except small fish, called Karpers and springers, which are excellent, and eels.

Shooting is one of the favourite amusements of the Cape, and it is to be had in great perfection. The period allowed by law is, from 1st December to 30th June inclusive; the other are prohibited months, during which the game breeds. Partridge, pheasant, korhaan (a species of bustard), wild paauw (a sort of small bustard), hares and antelopes, of numerous kinds, abound. Snipes and ducks are also to be found in the winter months in swamps—all, except the latter, are frequently seen on the same spot. On a good shooting day, game of various sorts fills the bag. There are no rabbits, except on the islands in Saldanha Bay. Shooting parties to the most distant parts of the colony, on the other side of the mountains (overberg), frequently take place. In these the Indians, being unoccupied, take the lead. The houses of the boers are generally very inferior to those on the Cape side; and the swarms of flies, fleas, &c. experienced on these occasions, corroborate our credit of the history of the plagues of Pharaoh. To avoid the want of accommodation and nuisance, it is advisable to pitch tents.

The red-winged partridge is in abundance (overberg), and killing twenty brace of birds in a morning is not an

unusual task for a sportsman to perform. Snipes abound so much in particular valleys, near the warm baths, that to describe the quantity would exceed belief. Bustards, of more than one sort, are found in plenty; but it is on Groene Kloof, or the flats of Swartland, and near the Twenty-four-River, and toward Saldanha Bay, on the Cape side of the mountains and Berg River, that the sportsman follows bucks (antelopes), shooting with most vigour and success. The English use double-barrel guns; one barrel of which is loaded with buck-shot, and the other with smaller shot, in order to be prepared for the variety of game which presents itself.

The boers carry heavy long single-barrel guns, with which they almost unerringly bring down an antelope, if within 100 yards. They shoot with great precision, but only at the larger game; holding partridge shooting in contempt. In the months of September and October, the quails are in surprizing flights or bevies, and any number may be shot. The quails migrate early in November, except from Robben Island in Table Bay, whence they cannot fly to the mainland; and, like a man in a jail, remain from the impossibility of getting out.

There is one sad alloy to the pleasure of sporting, in the difficulty of rearing dogs. The distemper, distinct from that of England, usually destroys them when puppies from four to six months old. If they do not take the distemper at that age, they are not clear of danger; and all, sooner or later, receive the infection. It affects chiefly the gall and bladder, and is attended by a violent fever, which no medicine appears to reach; and, if they do not recover by an effort of nature, usually die in a very few hours. Mercury, antimony, and every other remedy has been tried; but as yet no specific has been discovered. The hydrophobia was unknown here, till within a few months; at which time a slave-boy, bitten by a dog, died of that disease; but as other individuals, and also animals, were bitten by the same dog, and no bad effects followed, it might arise possibly from some other cause. That this should be so is most desirable; for the number of dogs in Cape Town is so great, that no one would be safe from the danger of hydrophobia. In addition to the most extraordinary breed of diminutive lap-dogs, of which each house has a portion, whose long hair is combed and washed almost daily, numerous

unowned dogs, of a larger description, roam about in packs. These animals live and grow fat on the offal of the fish-market, and of the butchery; and after a nightly repose under the warm covert of the outhouses, rush tumultuously at dawn to the sea-shore, with the cry, but not with the melody, of a pack of hounds. There they are gorged with the offal; and during the day, except their haunts suffer from intrusion, they are quiet.—Numerous as the beggars in Europe, they are not so importunate; but the whip will dismiss these, whilst the pertinacity of the beggar can only be conquered by a gift. The Cape-Dutch, who like a little snarling, say, that at the capture the English introduced the garden-louse to destroy the vegetables; that the English settlers brought the roest to destroy the wheat; and that the regiments lately arrived are accompanied by the hydrophobia to destroy the inhabitants.

A subscription pack of fox-hounds is on the list of Cape amusements. The jackall (fox of the Cape) differs little from the common one; it is something larger than an English fox, and a stout runner; but the hounds are in force and mettle, and it is a game jackall which can stand for one hour. The duiker, a powerful antelope, affords capital sport; but the lesser ones are disdained. There are neither hedges nor ditches; but mountains, sand hills, and mole holes, of dimensions and depth not to be believed by any one unacquainted with the Cape. The jackall, like the fox, well knows how to play his game and to direct his course rightly, when life is at stake. Nature, which has given a fine nose and foot to the hound for attack, has given cunning to the jackall for defence. The hounds are under the management of a skilful, keen, and excellent sportsman, whose only quarrel with Homer and Virgil is, that in the descent of their respective heroes to the Elysian fields, fox-hunting is not stated, on their return, as the favourite sport of the "mighty shades." Few of the Cape-Dutch subscribe to the fox-hounds; but in whatever regards the destruction of game of the larger kind, the wolf, the tiger, or the ostrich, they are foremost in the field.

The Cape races, which take place in September and April, cause considerable interest, and furnish a strong attraction. Many of the best bred horses had been sent to Mauritius and India in 1821, and the sport slackened; but the increase of young produce this year, from English

horses; caused a greater interest. The boers, who are the chief breeders, join eagerly in racing; and two of the principal ones offered a purse of 400 rix-dollars to be run for by produce of their respective studs.

The Indian gentlemen are a great support to the races; and have proved, by success, their title to be considered good judges of the probable speed of an untried racer. An extraordinary custom prevails here of an owner entering his horses in an assumed name. If it be a disgrace to a gentleman to be the acknowledged proprietor of a race-horse, he ought to abstain, and not have any concern in the transaction. The disguise of an unknown name excites curiosity; and the real one is soon discovered.—The ostrich puts its head behind a bush, and fancies itself concealed. The Olympic games were attended by all that was great and glorious; and, to be victor in the chariot race, for in that way the horses were then trained, increased the pride, and added to the fame and glory, of a king and an hero. Alcibiades, who, besides being the bravest general, was the finest gentleman of his day, in Athens, and in all Greece, sent seven chariots to the Olympic games, and gained the first, second, and third prizes; but so differently did he reason, that the valued part of the prize was the name of Alcibiades, published through all Greece, as the victor, and proclaimed aloud by a herald.

It is on the race-course that the display of pleasure waggons, carriages, and horses takes place; for what is dispersed at other seasons, is there collected; and it would surprize a stranger to see, at the point of South Africa, so many fashionable curricles, chariots, barouches with four horses, landaus, tilburies, and dennets. It is true, that the greater part of the merchants' horses were working in a waggon the day before, and will do so the day after the race, when their owners return to the duties of their shops and stores. No part of the inhabitants makes a greater display than the lawyers. The leading advocates of the day sport barouches and four, on which they drive, or are driven, reminding the beholder of the 5th chap. 2d book of Kings, verse 9. The next in rank are content with a curricle; and the notary follows in a solitary gig. Physic also asserts her claim of distinction. The physician in his chariot with four greys, the surgeon in his barouche or

tilbury, and the apothecary on his hack, passing the town burial-ground with an averted eye, hasten to the spot. It is a joyous scene—all are busy; and during the race week, care seems to be given to the winds. The Saturday after the race is pay-day; when some experience the pangs of a chancellor of exchequer, in his labour to find ways and means to meet the supply wanted.

"The races have been the principal cause of improvement of the Cape horse; the boers now, possessing high-bred English stallions, feel great satisfaction at the first victory of a colt from their stud. The Cape mares are small; but as their size and shape will be increased, both by import, and by the young mares now growing up from English stallions, there will be a race of horses equal to any in Europe, in the course of a few years.

"Company, dancing, and the theatre, are to the taste of all; but the habits of the Dutch and English are not as yet sufficiently amalgamated to allow them to associate and mix in the same free manner as is usual with individuals of a common stock. The heads of the society of each nation dine together, very much in the English style; the governor is also liberal in his invitations to both Cape-Dutch and English, and adds much to the hospitality of the place. The Cape has been described as not abounding in classic lore; but if the accusers had ever partaken of the excellent wine and dinner of the late acting governor, they would have been edified by the Latin and Greek quotations of his excellency, and retracted their charge. It must, however, be granted, that the guests did not always appear to understand the quotations; but if the governor laughed, they laughed too. The private entertainments, whether given by the Dutch or the English, are in good style, and abound in all the delicacies of the season.* The glass circulates freely to a late hour, except when the entertainment closes with music or dancing. Musical parties occasionally

* To the Lovers of good Eating.

TURTLE SOUP.

(At the London Hotel, Hout-street.)

A fine fresh turtle, just arrived from the Island of Ascension, will be dressed this morning, by a professional cook, (late turtle dresser to his excellency the late acting governor,) and sold at the following prices:—Per pint, 3 rds.; per quart, 5 rds.; per gallon, 20 rds.

Saturday, 30th March, 1822.

take place at the Cape; and there are not wanting private performers of taste and execution; but the professors are few and not eminent. Dancing is the favourite amusement of the Cape ladies; for all prefer to do that in which they most excel. In addition to the dances at private houses, there are subscription assemblies at the Society-house during winter, well attended by the English and Cape-Dutch.

The Cape-Dutch girls have an inherent inclination for dress and ornament; and as ladies in general are fully and daily instructed by the looking-glass, in the colour and fashion best suited to their respective form and complexion, the assemblies are adorned by every appearance of female elegance and taste. The ladies of the colony, whether English or Cape-Dutch, appear to be little, if at all, inferior in grace and activity to the usual standard of London dancing, and superior to most of the provincial assemblies; but they cannot be expected to keep pace with the exquisite movements of the elegantes of a court. The waltz or quadrille are now the high Cape tone; and country, now termed kitchen dances, are neglected. Quadrilles and cotillons were danced generally by the Cape-Dutch, before the conquest of the English; and to oblige them, the Dutch ladies give up the quadrille, which the English could not then dance, and adopted what is called the country dance. The young Cape ladies are not deficient in personal charms, and although there are here none of those commanding beauties, which abound in Europe, and particularly in England, formed to captivate all beholders, the Cape may boast of a galaxy of pretty young women. To these dancing assemblies a lady may go with her brother, or a friend, or alone, without fear of impertinent remark or intrusion. And she may return on foot at night, unattended, except by her slave with a lantern, without the slightest apprehension of alarm or insult. High Life below Stairs, a well known farce, in all places and in all ages, is acted here. Laura and Gil Blas, the lady's maid and the valet, will be found in all places, qualified to counterfeit the young widow of quality and the Spanish grandee. Whilst the public and private balls of the upper classes are going on, there are continual dances amongst the other orders, denominated rainbow balls, composed of each different hue in this many coloured town. The females are chiefly slave girls of the

first class, and girls who have acquired their freedom; and amongst the men are seen officers, merchants, and young Dutchmen. It cannot be pretended, that these meetings add to the morals of the town. However that may be, every thing during the ball is conducted with due decorum. The ladies imitate the manner, conversation, and dancing of their mistresses, and nearly equal them in dress; and, when the dance is over, it is not necessary to follow the parties into retirement. Besides these rainbow dances, there are others, in which the negroes are engaged; and although a few of these dances take place every night, yet the grand display is in the outskirts of the town, to which the black population rush, on a Sunday, (as the English do to Greenwich on Easter Monday,) and go through their various awkward movements in quick or slow time, according to the taste of the dancers. The Sunday dance is accompanied by native music of every description. The slave boys from Madagascar and Mosambique bring the stringed instruments of their respective tribes and nation, from which they force sounds, which they regard as melodious. The love of dancing is a ruling passion throughout the Cape population in every rank; but music, though a pursuit favoured by a small part of the society, is here a passion with the negro alone.

The play-house is a favourite place of amusement, and there exists a considerable degree of theatrical talent. The Cape-Dutch have not as yet been able to support a regular theatre, with a company of actors; but, until this season, a sufficiency of amateur performers was always to be found. There was a convenient play-house in St. John's-street, where farces (petites pieces) in Dutch were acted once a fortnight. No money was received at the door, but the subscribers gave tickets liberally to the English who were inclined to attend. This theatre has the advantage of actresses, for some of the Cape-Dutch young ladies have talents for the stage. It is understood that this agreeable little theatre was abandoned, in consequence of private disagreements, which, in the paucity of places of amusement, is much to be regretted. The only objection to it might perhaps be, that some of the pieces were rather too broad for English manners.

There is a regular built theatre, about the size of those in English country towns, in the Hottentot's-square. The

shares have got into the possession of the English; and English farces, comedies, and tragedies, were performed, as long as the army was numerous enough to furnish officer actors. Since the peace, plays have been occasionally got up, and two actresses, on their way to Calcutta, performed for one season. As there remained a sufficiency of tolerable amateur players to perform with them, they were received with deserved applause. The continuance of a theatre was a desirable object, as the Cape-Dutch frequented it regularly, and it brought them and the English into nearer contact. Of late there has been no performance; for although many actors remain, who can endure a raw-boned fellow of six feet high performing the part of Juliet or Lady Teazle? and there are here at present no English females who have confidence enough to tread the boards. Nothing is so disgusting as the public exhibition of a man in petticoats, acting a female part in a love scene. It is not so with the other sex. When an actress assumes the character of Sir Harry Wildair, although at the first entrance the fan sticks may be raised before the face, they are soon dropt. Curiosity, accompanied by admiration, is gratified at seeing a female of elegant symmetry and form, act with spirit and effect, the part of one of the lords of the creation. None of doubtful appearance are admitted to those seats in the theatre where, by their behaviour, they might put modesty to the blush; nor are the eyes of innocence offended by the effrontery of immodest women, or of men heated by intemperance. If libertinism does prevail in private, the eye and ear are guarded from the public display of indecent conduct.

No surer proof of the kind disposition of the Dutch need be offered, than the frequent adoption of children of persons not related to them, whose parents may be dead or may have met with misfortune. In England, it is not unusual to find those, who are ashamed of their poor relatives; but at the Cape it is totally different. They find protectors and friends; and by custom, though not by law, a godfather or godmother consider it to be a bounden duty, at the least to take care, that the children of their deceased or impoverished friends be put to a school, and finally in some way enabled to provide for themselves. This love of adoption is carried so far, that a married couple saying in a shop, that they knew not what to do with their new-born infant,

were overheard by the master, who submissively asked to be allowed to take the child. It was granted as a joke, and the next morning, to the utter surprize of the parties, attendants, with a sedan-chair called to take the child; and on its return back empty, the shopkeeper declared himself to be extremely ill used, in being deprived of the promised gift.

There are three forms, under any one of which the marriage ceremony may take place: by special license in a room, by licenses in the church or vestry, or by the usual banns. The majority of marriages takes place in the church during service on a Sunday. There are more poor than rich, and no fees are paid when the ceremony is so performed. If the parties are married on a week day, or on Sunday, in the vestry, a fee of twenty-five rix-dollars becomes due.

Great festivities take place at a Dutch wedding, and the neighbouring friends and connexions are invited. Eating, drinking, dancing, and mirth more boisterous and rude than modern European manners permit, accompany the matrimonial scene. A jubilee of several days is not unusual in the best families of the Cape, and on this single happy occasion, the nation appears to forget its discreet and sober habits, and, laying aside decency and decorum, abandons itself to gross and disgusting revelry.

The parents after the marriage will not permit the young couple to leave the house, until they have found opportunity to settle themselves satisfactorily; and, in a short time after, they adopt the usual regular habits of domestic life. The wife attends to all the household duties, and the husband to his farm, his business, or his profession. Marriages are, generally as happy as those of any other part of the world. The women are prudent wives, and affectionate mothers; and were it not for the blameable facility of legal separation, which encourages vicious practices in both parties, the discord of married couples would be very rare. But to separate is so easy, that trifling disputes rise to dislike, and so on to divorce. The grand specific for the happiness of married life, "to bear and forbear," is unknown at the Cape. Money is not the principal object in marriage here, for none are ashamed to work: those who are in the practice of agriculture, of trade, and of mechanics, are not held in light estimation, and no one doubts of gaining a competent livelihood after marriage. Incontinent wives and profligate husbands are to be found; for the region of

perfect conduct, and unfading happiness, lies not on this side the grave.

Early ripeness produces premature decay. An active handsome girl of fifteen, become a wife, frequently increases to an enormous size before she is thirty; and in five years more, an age at which, in Europe, there still remains much mature beauty, appears to be an old woman; before that period, the bounty of nature has sometimes furnished her with an immense additional load of fat from the hip to the knee, and of flesh and bone from the knee to the ancle. It is, however, by no means universal, for there are ladies who retain to the last their due proportions of shape and beauty. A rare specimen of the size of a native female was furnished in the person of the Hottentot Venus, who went to London, and died in France, a few years since. It would not have been difficult to have found three Hottentot graces of the same calibre, for her accompaniment; but it is only in women and sheep, which are indigenous, that nature is so profusely prodigal at the Cape.

The baptisms and christenings of children in the Cape-Dutch chapels are not attended with any particular ceremony. The sponsors are not required to attend. It is sufficient that their names are delivered to the predicant, and to the officers of the church.

The funeral ceremony is an outrage upon all our European feelings. After the decease, the relations and friends are invited to the funeral, which usually takes place with one intervening day. If the individual is of consequence, the concourse is great, and previous to the sepulture, which takes place about five in the afternoon, the company are received in the apartments, where every kind of refreshment is provided. When every thing is prepared, the undertaker appears, and calls upon the relatives to follow the coffin, in order of consanguinity; and the whole party goes in procession to the family vault, which is frequently in the garden. No clergyman attends professionally, nor is any church service performed, on the principle that, the spirit having left the body, what remains is only worthless dust. Arrived at the cemetery, the coffin is placed therein, friends and relations standing around. A mason stands prepared, and the tomb is closed, so to remain till another subject of death's dreary kingdom is presented for admittance. The

attendants return to the house, and regale themselves with cake and wine.

It is matter of surprize, that amongst so well conducted a people, there should not be found a more serious deportment, on so solemn an occasion. In England, the loss of a parent, of a near relation, or of a friend, calls forth the most poignant feelings. The awfulness of the ceremony, according to the rites of the English church, and the recollection that this is a solemn scene, in which all, sooner or later, must bear their part, might be expected to weigh seriously upon the mind of every reflecting person; but at the Cape it is otherwise considered. When concluded, the whole party talk of their several affairs as though nothing serious had intervened. Within a month after, the public sale of the effects takes place, when different members of the family frequently bid against each other, for a slave or an article of furniture, with a rancorous pertinacity. The feelings of fraternal love is here very subordinate to that of filial duty; and though piety to parents is almost general, the jealousy of brothers and sisters of the same family too often appears. A very considerable, and on other occasions respectable man, a short time since desired, when at the point of death, to be reconciled to a brother whom he had not noticed for fifteen years. It is the etiquette of the place for the widow or children to insert the death in the next Cape Gazette in an advertisement, frequently containing the most ridiculous eulogium on the deceased, and an inflated account of regret which is not always felt.

'Died, on the 6th instant, my dearly beloved wife, Maria Mag. Hoffman, aged thirty-one years and six months; of which sorrowful loss to myself and children, I hereby give notice to relatives and friends, and request to be excused the visits of condolence. J. L. IMMELMAN.

Stellenbosch, 10th May, 1821.

'This day, at eleven o'clock, departed this life, my beloved husband, J. A. Basson, aged forty-four years, eight months, and twenty-six days. I give notice of this sorrowful loss to relatives and friends, and request to be excused the visits of condolence. Widow M. M. BASSON,

Keesenbosch, 12th May, 1821. Born BASSON.

Only one British lady has as yet honoured a Cape-Dutch

gentleman with her hand. From his European and professional education, and the consequence and habits of his family, attached to English manners, customs and society, he can hardly be considered in any other light, but that of an Englishman. Very frequent marriages take place between English gentlemen and Cape ladies; but the pleasing and engaging manners of the Cape Dutch girls, and their vivacity, less forward than that of the French, but enough so to subdue English coldness, is quite at variance with the obtrusive presumption of the younger part of the other sex, and in them, it is not to be denied, that abundant materials exist, which, when properly worked, form a totally different man. Ignorant of the gradations of society, and unacquainted with the deference due to superiors, what can be expected from the youth, who, at the age of fifteen, is sent from his family house as clerk in one of the public offices, the usual finish to the education of the young gentlemen of the colony. Here he learns obedience to the head of his office, with a little awe of the fiscal, and chief justice, who can punish, and of the colonial secretary, who can recommend to promotion: and thus he is fitted for society; yet, with all these chances against him, from the natural good feelings of the mind, the individual generally turns out a respectable character, as he advances a little into life.

There are several little excursions from Cape Town extremely pleasing. Rondebosch, Wynberg, Constantia, and Hout's Bay, are all within a day's ride. This is the most beautiful part of the Peninsula, abounding in shade and water, which cause it to be the preferred summer resort of the Cape. The government house at Newlands, replete with taste and elegance, is a most acceptable summer retreat in a hot climate. From it, through the cantonment of Wynberg, between the two bays, a most delightful spot, where, during the war, a force was stationed, you go on to the Constantias, two wine farms, noted in every book written on the Cape; but they are no where over-valued. The beauty and scenery of these houses and vineyards attract all visitors, and the courtesy of the owners causes every one to go away with a high sense of the kindness of the parties. Here liberality meets its due rewards; for there requires little more market for the Constantia wine, than the well-pleased visitors afford.

Proceeding to Hout's Bay, through a hill along the south-

eastern side of Table Mountain, the massive stones and the deep ravines fill the mind with awe. The valley underneath, between the road and the mountains, abounding in water, has hitherto continued to be uncultivated; but, as a part of it has lately been granted on quit-rent, it is to be expected that this valuable spot in the vicinity of the Cape will add to the produce and beauty of the neighbourhood.

In approaching the Bay, you arrive at the place of Mynheer Van Helsdingen; and such is the kindness of the owner, that, whilst he shows you around his vineyards and his gardens, you feel shame in permitting your mind to receive an impression of the little that is gained in the way of improvement, when compared with the powers which the place affords; but the owner possesses more than his utmost wants, and the spur of necessity has no force.

So much has been written about the merits and demerits of Houts Bay, that it would ill become an ignorant landsman to presume to give any opinion, and the reader is referred to two reports, (Appendix, L. and M.) whereby he may be enabled to draw his own conclusions.

There is a more extended tour, beginning with Hottentot's Holland, to which the road from Cape Town leads across the sandy flat and heavy sand-hills between Table Bay and Simon's Bay. These downs, from their marine appearance, the quality of the surface and the number of shells found throughout, above and under, are by some conjectured to have been, in times of yore, covered by the ocean, insulating the Table and Lion Mountains, and the elevated lands within and around them; whilst others, in a spirit of prophecy, proclaim, that, in some future convulsion, such will be the case, by the sea bursting its banks, and submerging the whole level from bay to bay. In the meantime, however, by traversing these sands and hills, the village of Somerset is attained, through which is the direct road to the Hottentot Holland Kloof, the grand communication between Cape Town and the eastern part of the colony. A handsome church has been erected, and the village already is of some importance.

From the partiality originally shown to this pleasing part of the colony by the earlier Dutch inhabitants, it received the name of Hottentot Holland; and Mynheer Vander Stell, governor, about the year 1699, had here his residence, occupied a large part of the country between the Kloof and

the sea; but in the year 1711, Governor Van Assenberg transferred to different individuals the still existing places heretofore in the hands of Governor Vander Stell.

The country abounds in corn, fruit, and wine, and the principal houses are protected and adorned by lofty trees. The stream of water is abundant, and nature has been liberal in her gifts to this favoured spot.

The Hottentot mountains form, from the kloof, a girdle at the edge of the flat country, till they close upon the sea, and that part forming Gordon's Bay on the eastern side of False Bay, stretching to the south-west.

Inner Gordon's Bay affords good anchorage in five fathoms and a half on sandy ground; a cable's length from the shore. Ships working out from Simon's Bay may receive shelter for the night, anchoring with a kedge, or stream anchor, lying in safety in a south-east wind, and stretch out at day-break. The bay is equally good for ships standing into Simon's Bay, desirous to anchor at night; and there is no difficulty for ships, having a chart of False Bay.

There are fine streams of excellent water running from the mountains into the bay.

The south-west is the wind least safe in Gordon's Bay, as it brings a swell into the anchorage; but it rarely blows home, or becomes more than a stiff breeze.

The land forming the bay, and in the neighbourhood, was the property of Henry Alexander; and such was his predilection for this part of the colony, such his sanguine expectation of its future value, that he declared his belief, that, at some future period, his estates in Hottentot's Holland, his whale fishery, and his harbour at Gordon's Bay, would greatly exceed the value of any one of the counties in Ireland. Expectations so extravagant could never be realized, but there were solid grounds to consider Hottentot's Holland as a valuable possession adapted for a very considerable establishment.

If the life of Mr. Alexander had been prolonged until the arrival of the settlers in 1820, he had the means of holding out advantages superior to those of any other part of the colony. By the arrival of such a population, a part of which was from Ireland, a village at Gordon's Bay, his darling hope, his theme by day, his dream by night, might, and probably would, have been easily and advantageously accomplished.

The site of this country, through which every thing travelling from the eastern interior passes to the capital, gives an opportunity of purchasing produce to any extent. The inhabitants and the naval establishment of Simon's Town, directly opposite, could receive their supplies of poultry, vegetables, corn, cattle, and wine, by sea carriage from Gordon's Bay. These various articles now go by land from the interior to Cape Town; and, in the Cape market, they are purchased at an increased rate, and sent by expensive land-carriage to Simon's Town. The whale fishery, if connected with one undertaken for the salting of sea-fish, which may be caught in the bay in any quantity, would give to the boer a most desirable return for his corn and cattle, and would be a most valuable export to Cape Town, fully employing and recompensing the settlers. The country is more than competent to maintain any population necessary for the purpose, and offers present enjoyment and future prospects more real than the visions of the Zureveldt. This estate of Gordon's Bay now belongs to a gentleman residing in England, by whom it is to be hoped these fair prospects may eventually be realized.

Stellenbosch is one of the fruit-gardens and vineyards of South Africa. In the months of January and February, there is no place, probably, in the world, where grapes, peaches, and nectarines are in such general plenty and perfection. The village of Stellenbosch is picturesque, abounding in oak trees of large size, and having rills of water running through the streets; but from the vicinity of the mountains, and the prevalence of south-easterly winds in the months of December, January, and February, it is extremely hot. Here are good accommodations for strangers in boarding-houses at about six rix-dollars per day, besides a hotel of no mean quality.

The boarding-houses, both here and in Cape Town, which are supplied with every thing necessary for the comfort of domestic life, are kept chiefly by respectable widows of the best families in the Cape. The expense of living there does not exceed ten shillings per day, and many Indians prefer it to housekeeping, rendered troublesome on account of servants. Some of the widow ladies have pretty daughters, and a man must be on his guard, or, in seeking Hygeia, he may yield to the temptations of Hymen.

From Stellenbosch, the usual progress takes to the Paarl,

another colonial vineyard, a long and handsome village, between a stone mountain on one side, and the Berg River on the other. The heat here is excessive in summer; and having seen the place, a stranger is restless till he leaves it.

The next spot is the Waggon-maker's Valley, where the golden apples of the Hesperides abound, without the dragon to protect them. The produce of the orange trees is so great, that it is difficult to gain belief, except from one who has been an eye-witness; but the truth is, that in the beautiful and picturesque gardens of Jufvrouw Lategan, at Dool Hof, the orange trees measure the height of 55 feet. The produce of two young trees, each ten years old, amounted to 15,500 oranges, besides windfalls; and, from the entire orangery, the yearly gathering of oranges fills sixty-five waggons, each containing 5,000, picked during the two months of September and October. More could be sent to Cape Town from this single place, but waggons are wanting, and the remainder is distilled for brandy.

It is a pleasant continuation of this ride within the mountains, to visit the different farms on the Berg River, and then to incline towards Saldanha Bay, about which so much has been published. Mr. Barrow has entered at length into its merits, and more need not be advanced in praise of the security of Saldanha Bay. In abatement of its merits, it should be considered, that, although easily entered by all ships, it is difficult for any but a vessel of war to work out, and that a continuation of south-west winds may cause a tedious detention. So great, also, is the want of water, that when Sir Roger Curties sent the Rattlesnake and a brig of war to be hove down and repaired in the bay, it was found necessary soon after to dispatch thither a vessel laden with water. The land difficulties are as great: surrounded by high and deep hills of moving sand, access to Saldanha Bay is tedious and difficult, amounting to such a hindrance as would be intolerable, were there to be much population at the bay; and so unfit for cultivation and agriculture is this far-famed spot, that Mr. W. Parker, a sanguine settler, has abandoned a place, to which he was so partial at landing, that he purchased an extensive farm, running along the edge of the bay. The true application of Saldanha Bay is for the feeding of cattle, and for this purpose these places are most excellently adapted. The

remark of one of the earliest and best informed English residents is worthy of notice: "The old Dutchmen, who first formed the establishments of this colony, had more under their nightcaps than most people give them credit for; for every one who reflects, must observe the prudent advantages they have taken of the localities of the place."

The road back to Cape Town leads through the Groene Kloof, one of the best cultivated spots in the colony. Grote Post, the government farm, has been the breeding place for the dispersion of cattle of the best blood and shape through the colony. The improvement has been so rapid, that they are abundant on the farms of the boers, and this object is no longer necessary; but barley, corn, and hay, for the supply of the capital, is here grown in abundance. The Groene Kloof is only a short day's journey from Cape Town.

From the picture presented, it is not to be inferred, that there is not probably the same proportion of physical and moral evil at the Cape of Good Hope as elsewhere. Apoplexy, palsy, and gout are endemial, and prove fatal at an early period of life, arising possibly from the fat and gross diet of the Cape-Dutch inhabitants, and from a habit, now wearing out, of retiring to sleep immediately after dinner. Fever, colds, and consumption assert their power also, of draining the world of inhabitants; and there is a rheumatic affection, called the Sinkings, which shows itself in swellings, (lucus a non lucendo,) and is painful. Longevity is not common among the natives, but the climate appears to be very congenial to Europeans. The Cape-Dutch character has its faults as well as that of all other nations; the love of gain, even if acquired by trick, is uppermost in the mind. To this every thing gives way, and to gain a rix-dollar is the glory of a Cape-Dutchman. Usury is practised to a considerable extent: and to be regarded as a rich man is the darling object of them all. The ceremony practised by the inhabitants towards each other is sometimes ridiculous, extending even to the lowest class, who in passing pull off to each other their worn-out hats, and bow to the ground. The power exercised over slaves gives to every Christian man (for that is the term) so much distinction, that pomp in rags displays its superiority even in the street. Phlegmatic as the people are, they cannot bear raillery. If you tell a Cape-Dutchman, that, by the treaty

of Paris, he and all his family were sold for thirty-three pounds sterling per head, that being the amount at which, as one of 90,000, he was valued, when three millions were paid to the King of the Netherlands, he becomes most indignant. It is a mixed feeling, arising in part from pride, hurt at having been the object of a sale, and partly from vexation, at being separated from the land of his fathers, and compelled to submit to the fate of a conquered country.

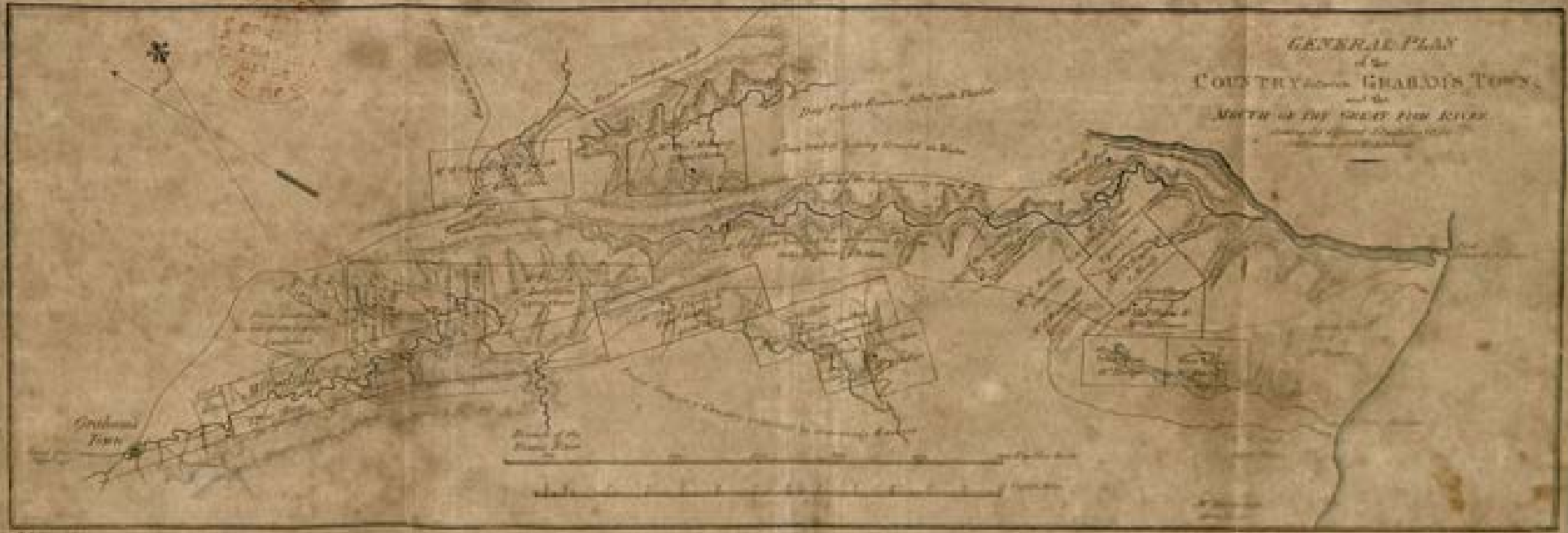
Moral writers assert, that the happiest condition of human fortune is in the uniform and uninterrupted current of ordinary life, affording from day to day the same regular pursuits. If this be correct, man in the Cape colony is a most happy being. There is nothing here calculated to give an impetus to violent exertion, and the current glides on in an unvarying course. Ambition and politics, two of the grand tormentors of human life, have no field in South Africa large enough for an Englishman, and the Cape-Dutch know them not, for they are content to be quiet, and to obey. What avails it to the most active and zealous politician of the place, to cast censure on a measure which has passed the legislature many months before, and upon which society acted before he was acquainted with its introduction? In this small circle, it adds more to happiness that events, which in Europe stir up the mind with so much force, should appear to be disregarded, and, although deplored, talked of merely as circumstances which have taken place in Great Britain. Upon the whole, if the Cape colony does not afford the speedy means of acquiring wealth—if there be no lure for ambition, no scope for the display of powerful and commanding talents; yet, there may be found, upon easy terms, almost every moderate enjoyment of private and domestic life, accompanied by the health and activity, in a climate favourable to the European constitution. If, at the close of life, an individual, after having gone through the varied climes and scenes of the world, were to calculate the amount of comfort and enjoyment derived from each, he might possibly consider that portion of his life which was spent in the colony of the Cape of Good Hope, not to have been the least happy period of his existence.

CHAPTER IX.

SETTLERS.

On the 12th July, 1819, being the last business day of the session, Mr. Vansittart, Chancellor of the Exchequer, made that far-famed speech, which was the leading cause of the embarkation for the Cape of Good Hope of more than four thousand settlers of various descriptions. Lord Sidmouth, in the House of Lords, harangued to the same purport, and fanned the deluding flame, which had been lighted up in the Commons. Mr. Vansittart is reported, in the newspapers of the 13th, to have said, "The Cape is suited to most of the productions both of temperate and warm climates, to the olive, the mulberry and the vine, as well as to most sorts of culmiferous and leguminous plants, and the persons emigrating to this settlement would soon find themselves comfortable." The considerate and grave character of two ministers, so at war heretofore with every thing like fancy or fable, caused their statements to be received with full credit and confidence, and they were regarded as a warrant of success. It is strange to relate, such to have been the infatuation, that those who disagreed on all other subjects, agreed in this alone. Mr. Hume went far beyond the chimerical expectations of the ministers. In the same daily journal he is reported to have added a recommendation rather remarkable, when proceeding from the mouth of a professed friend to freedom, that, "If men, under certain circumstances, (meaning able-bodied parish paupers,) were unwilling to emigrate, it might even be advisable to transport them without their consent"—that is, transport British subjects for the crime of poverty; "a retrenchment" of the liberty of the subject, greater than was ever before proposed by the most devoted tory.

Thus cajoled, and thus threatened, the eagerness and anxiety of individuals, to be allowed by the colonial secretary of state to emigrate to the sands of South Africa, "the new land of promise," were unbounded. It was hardly, if


GENERAL PLAN
of the
COUNTRY between GRAHAMS TOWN
and the
MOUTH of the GREAT FISH RIVER

at all, exceeded by the followers of Sir Walter Raleigh, in search of Eldorado, or of Cortes or Pizarro, in their avidity to possess themselves of the gold of Mexico and Peru.

At this time, dissatisfaction had spread itself over the land. A continued pressure from the heavy taxes of a long war, of which the abatement had been anticipated, soured the minds of a too sanguine public, whilst the stagnation of trade and manufactures, the necessary consequence of their resumption by foreign nations, placed Great Britain without means adequate to the demands of the tax-gatherer. It is not very unnatural to look for relief from taxation, to those who impose taxes. Meetings were held, with a view of petitioning, and almost demanding, a relief from burthens, the reduction of the public expenditure, and, above all, a reform in the commons' house of parliament. Public affairs wore an unfavourable aspect. Multitudes proclaimed their determination of abandoning a country, where they affirmed daily labour to be insufficient to procure subsistence, and where what are called the Six Bills pressed so hard, as to bereave them of political and personal liberty. Possibly, the government of England, mindful of the consequences which, in the reign of the first Charles, followed a prevention of the departure to America of Hazelrig, Hampden, Pym and Cromwell, encouraged this emigration of the discontented to a distant part of the globe. To give a straight bias to a ball so impelled, was the difficult task imposed upon ministers.

There are, who at that time pronounced the Cape to be ill adapted for the reception of a mass of settlers, and who now regard the choice of that colony as having been made without due reflection. Many persons were at home within the call of government, who had been resident at the Cape, and well informed of its capabilities, and of the character of its people. They could have explained not only the difficulty, but the absolute impossibility, of maintaining, without distress to the colony, such an immediate accession of British inhabitants. It is, however, impossible to conclude, that a mere delusion, or the show of doing something for the people, could operate on ministers with strength sufficient to induce them to engage in such a game of human happiness; or that the selection of the spot for this adventure of wretchedness and disappointment could

have arisen from any cause more culpable than a want of due examination of the scheme, as it applied to the Cape, and of yielding to the suggestions of incompetent advisers.

Without commenting more at length on the motives of this measure, it is sufficient to state, that the vessels conveying the settlers arrived in Table Bay in March and April, 1820. This hasty arrival of men, women, and children, requiring aid, food, and supplies of every kind, could not but embarrass the colonial government; with whom a previous and more comprehensive understanding would have secured arrangements suitable to the nature of the country.

By the Cape local authorities, England would have been told, that, although a traveller passing through the country after rain, might describe the Zure Veld, now the district of Albany, as productive and well watered, a resident would state the land to be, in its quality, by no means fertile; that the gardens, with the help of manure and water, yielded ample crops; but, if moisture failed, which it often did, they were inevitably burnt up, and unproductive; that the springs were frequently dry; and the water so brackish as not to be drinkable; that the streams flowed in deep ravines, and irrigation was impracticable; that the mouths of the rivers were blocked up with shifting or permanent sands, or by rocks, so dangerous, as to preclude even the attempt to enter them without excessive danger; and, above all, that the want of periodical rains placed the crops at hazard in every year; and in many years occasioned their total loss.

After the arrival in port of above 4,000 strangers to settle in the colony, it is difficult to state what would have occurred had they been permitted to land at Cape Town. The prevalence of measles and small-pox in several transports, during the passage, rendered the strict enforcement of the quarantine laws imperative; and by this circumstance Cape Town was preserved from an importation, which it might have required force to have re-embarked.

During the voyage, and the delay for refreshments in Table Bay, hope had become faint. From what they had suffered on the passage, in transports necessarily crowded with people who were contentious and disputative; from all they now heard, and now saw, disappointment prevailed in a great degree. Men began to lament their own folly,

and to accuse the ministers of having deluded them, or of having been themselves deceived. A part of them still, perhaps, remained in slight expectation, that the location in the Zure Veld, on the eastern coast, which many of the lower order of settlers, belonging to the parties, declared to have then, for the first time, officially learnt to be their destination, might make amends, by its fertility and enjoyments, for all their sufferings.

The trasports arrived in safety at Algoa Bay, and all were disembarked without accident, under the excellent arrangements of Captain Moresby, of his Majesty's ship Menai.

A party, occupying one ship, made a demand of being landed on their location, within the banks of the Fish River, according to agreement; and expressed surprize and indignation, when told that the entrance of a vessel into the Fish River had ever been a physical impossibility. The settlers found that their intended locations were at the distance of more than one hundred miles from the coast. No previous order had been given from home, to provide means of conveyance to Albany; no corn or provisions embarked in England, on the transports, or in attendant vessels, with a commissariat prepared to supply this numerous host on its landing upon the African shore; nor had there been the consideration of a possible want of bread in the colony, to support this sudden invasion. In the eagerness to get rid of a part of the redundant population of Great Britain, the limited powers of the Cape were entirely overlooked. If the Travels of Mr. Barrow,* or that gentleman himself, now a servant of government, had been consulted, it would have been explained, that, after the

* "The surplus, purchased by government, in fruitful years, was laid up in magazines, against a season of scarcity. At the time of the capture, there were found in store near 40,000 muids, part of which was sent to England; but the following year not affording a productive crop, the scarcity was so great, that government found it necessary to prohibit the use of white bread; nor, since that period, has it been able to lay up in store, a single bushel of wheat; nor to allow of any exportation, beyond what was necessary for the consumption of the crews of the several ships during their voyage; and this was generally sent on board in biscuit and flour." Page 312, 2d vol. *Barrow.*

There is no one line in Mr. Barrow's book, which proves his accurate view of the powers of Cape agriculture, more than this remark, which is as correct now as in the year 1795, to which it refers.

possession of the English in 1795, the export of corn, allowed by them, created a dearth; and this bore no comparison to the effects of an immediate and permanent supply of bread for more than 4,000 persons, added to the population of the colony. The same consequence has followed: disastrous seasons, which almost invariably occur every three or four years, have prevailed, and aggravated the general distress; and the colony is now preserved from absolute famine, by the arrival of rice, corn, and flour, imported, by the merchants of the Cape, from India, from England, and from the new and increasing settlement at Vandiemen's Land.* This is the real and frequently recurring state as to bread corn in the Cape colony, which the master-hand of the author of "The State of Europe" paints as "soon to become a granary in the finest climate of the world,"† and which the chancellor of the exchequer, in his emigration speech, declares to be suited to the growth of culmiferous plants; or, in plain English, to abound in corn.

It is due to the colonial government to draw the attention of the reader, to a short, but faithful narrative, detailed in the next chapter, and accompanied by official documents, of the excellent and well-considered plan of location, upon which his excellency Lord Charles Henry Somerset decided and acted, previous to his departure for England; as well as of the measures taken, in conformity, by the acting governor during his absence. That chapter, with its documents, was kindly supplied to the writer by the same able servant of the colony, who furnished to him the plan and description of the mole projected in Table Bay. From his statement, the public will perceive, that the local government has exerted itself most meritoriously, in forwarding the views of the settlers; and gone far beyond what could have been expected by the mother-country, had she paused and reflected upon the slender finances of the Cape; the scarcity and dearness of corn; and its insuffi-

* 20,622 sacks of wheat; 3,040 flour; 17,275 rice. Total value, 1,029,785 rix-dollars.

† Being the finest climate of the world, is the precise reason why it never can be a granary. The general want of rain, and the frequent drought in November and December, when the corn is in blossom and ear, frequently dries up the grain. If the climate were less fine, it is not to be denied, that it might "soon become a granary."

ciency, on an average of years, for the supply of the natural population; together with the declining value of all property in the colony. When it was first told, that settlers of every description, including the inhabitants of the English workhouses, were to be sent to the Cape, a servant of government, eminent for talents and wit, most truly observed, that it was sending "pauperes pauperioribus."

CHAPTER X.

LOCATION OF SETTLERS.

It is not the object of the accompanying statement, to give a history of the emigration of British settlers to the Albany district, which took place early in the year 1820; or to enter into any description of the country settled. It is not intended to defend the measures which the government of the Cape of Good Hope adopted at that period, and which for now upwards of two years have unceasingly occupied its attention; or to take merit for those concerned in their execution: nor is it proposed to impute blame in other quarters, where failures may have taken place, or want of success may have excited discontent; but undisguisedly to show what was done for the settlers: not by any partial or exaggerated account; but by a reference to original documents; in which there can be no deceit or disguise; and of which every person, into whose hands they may fall, is a competent judge; merely connecting the documents by a short narrative, calculated to draw the attention of the reader to the particular points, and to render the examination, matter of ease to those who wish to obtain the information therein given.

STATEMENT.

In the month of November, 1819, Lord C. H. Somerset, the governor of the Cape of Good Hope, received the first intimation of the intention of his Majesty's government to encourage emigration to the colony. His lordship

lost no time in directing preparatory arrangements, as will appear from the annexure No. 1;* wherein the line first to be occupied is pointed out; the surveys directed; and other minor circumstances are provided for. In the next communication, annexure No. 2,† which is dated in the February following, it will be seen, that as the term approached for the arrival of the emigrants, measures were taken, first, for providing them with camp equipage upon their debarkation; second, for their approvisionment upon their landing; and third, for their conveyance to the places of location, upwards of a hundred miles distant from Algoa Bay, the only point at which a landing was practicable. The importance of these measures can only be appreciated by those who know how difficult it is, in a country so thinly peopled, and at a distance of six hundred miles from the only market, and that merely calculated for the limited population of its environs, to procure provisions for so great an influx of people, upon such very short notice; or to collect the great number of baggage waggons requisite for so extensive a conveyance as that necessary for five thousand persons, with stores, and agricultural implements. The first survey‡ was opportunely finished, previous to the arrival of the transports; and the mode, which regulated the future operation of locating the respective parties as they arrived, will be best understood by inspecting it, and perusing the instructions sent to the local authorities, upon the arrival of the first settlers in March, 1820.§ To the system therein laid down, there was strict adherence. The acting governor, and deputy secretary, Mr. Ellis, went at this period to the frontier, to provide for such further exigencies as might occur. The minute attention, which was paid to the wants of the settlers, will appear from Mr. Ellis's letter to the heads of parties, of May, 1820,‖ whereby their supply of fuel, water, timber, and thatching was regulated. The emigrants having taken up their ground, and much dispute and cavilling amongst themselves

* No. 1.—Letter from the Colonial Office to Lieut. Colonel Cuyler, dated 12th November, 1819.

† No. 2.—Extracts of a Letter from the Colonial Office to Lieut. Colonel Cuyler.

‡ No. 3.—Copy of Survey.

§ No. 4.—Letter to Lieut. Colonel Cuyler, dated 22d March, 1820.

‖ No. 5.—Circular to the Heads of Parties, dated 14th May, 1820.

having been found to prevail, a provisional magistrate was sent to the centre of the locations, to take cognizance of these matters, and act under instructions,* which were calculated, as much as possible, to promote unanimity, and meet the cases on the spot; otherwise the parties must have left their locations, to seek redress of their grievances and complaints at a distance from home, to the delay of their agricultural operations.

The several parties being now located, the next object of the colonial government was, to endeavour to effect the arrangement of their deposits, the instructions to which effect will be found in annexure No. 8;† but it having appeared from communications from the commissariat department, that the third instalment of the deposits had been expended, as early as September of the first year, and consequently before it had been possible for the emigrants to reap the fruits of their industrious exertions, measures were adopted (vide No. 9,)‡ for continuing to them, nevertheless, provisions from the public stores, to be paid for at a future period, either when their harvests should have enabled them to meet the demand, or otherwise, according to circumstances.

The proclamations of the 15th of September, 1820, with the inclosures, Nos. 10 and 11,§ will clearly shew the anxious care which was taken to provide for all the exigencies of the settlers; a court for hearing petty cases was established, and, which is similar to a justice of peace, a special heemraad was appointed, and the most respectable settlers were selected for the situations, thus meeting, as much as possible, their various interests.

It might have been expected that these regulations of the colonial government would have induced unanimity among the individuals of the respective parties; but, unfortunately, this was not the case. The members of scarcely any one party agreed together, and the frequent and mutual complaints evinced a petty tyranny in the heads of parties on the

* Nos. 6 and 7.—Letter to Captain Trappes, and Circular to Heads of Parties, dated 23d May, 1820.

† No. 8.—Letter to the Assistant Commissary General, dated 14th July, 1820.

‡ No. 9.—Letter to the Provisional Magistrate, 8th September, 1820.

§ Nos. 10 and 11.—Letter to the Provisional Magistrate, and the Landdrost of Uitenhage, dated 15th September, 1820.

one hand, and an insubordinacy and discontent on the other. This made it further necessary to provide against the heads of parties stopping the issue of provisions to those under them, with whom they had differences, in order, by starving their families, to reduce them to the necessity of complying, in some instances, with their unwarrantable pretensions, (vide No. 12).* The calamity of blight began now to manifest itself in the crops of the settlers; it was spreading rapidly through all parts of the colony. Not only the Albany district was thus dreadfully visited, but all that country from which the Cape population derives its supplies. This made it a matter of extreme difficulty, and even of delicacy, to provide for the emergency without creating an alarm, which might have been attended with the most fatal consequences. The annexures 13,14, and 15,† will show the steps taken by the colonial government gradually to meet the evil, and to spur the settlers to fresh exertions of industry. It was with a view to encourage their perseverance, that the acting governor thought it would be advisable to visit the Albany district a second time, that, by his being on the spot, they might be convinced of the interest that was taken in their welfare. He then found that, notwithstanding all that had been done, the extremely litigious disposition of a great part of the settlers induced them so frequently to appeal from the decisions of the local magistracy, to the superior district court at the distance of 100 miles from the locations, that he deemed it expedient to obviate the inconvenience thereby created, by the appointment of a landdrost, and the establishment of a full court of district municipal magistracy on the spot.‡ Thus, the Albany district was finally separated from that of Uitenhage by the Bosjesmans River, and the space occupied by the settlers had all the advantage granted to it, which was possessed by the other provincial divisions of the colony. It may be proper here to state, that, besides the settlers who were sent to the Cape at public expense, for whom the colonial government was induced to provide, to the extent of the deposits which they had lodged with his

* No. 12.—Circular to the Magistrates, of 24th December, 1820.

† Nos. 13, 14, 15.—Circulars to the Magistrates, and Heads of Parties, 21st December, 1820, and 19th January, 1821.

‡ No. 16.—Proclamation separating the Albany district from that of Uitenhage, and appointing a landdrost to the new district.

Majesty's government in England, another class came hither, under circumstances altogether different. These were individuals who, possessing, or stating that they possessed, means of their own for taking and cultivating land, applied for locations under the Secretary of State's letter, which had assured them that they should be established according to the means they respectively had of doing justice to the soil. This class was not considered entitled to be provided for by government in any other way than having a spot, on which to locate, pointed out to them. The stores sent out by government were destined for the first class, and the quantity was insufficient; it was not prudent to undertake to find rations for this class, and they were to be left entirely to their own exertions. Many have, in consequence, met with heavy disappointments; but it will be obvious that it was impracticable to place them on the footing of the first class. They had not deposited sums to meet the expense of furnishing them with food and stores, as the others had done; and in fact many of them did not possess the means which they represented themselves to have, nor did his Majesty's government undertake more than to place them on the soil. The annexure No. 17* will show the precautions which were taken in regard to this description of emigrant; precautions, it is assumed, which were as necessary for the interests of the public, as for those of the individuals concerned.

At this period, a reply was received to the representations which had been made to the home government with respect to the great amount of waggon hire, which was to have been placed to the account of the first class of settlers. No time was lost in communicating to them the favourable decision by which they were exonerated from this heavy charge, which would of itself have nearly absorbed the balances left in the hands of government. In notifying this to the heads of parties,† opportunity was again taken to remind them of the necessity of preparing for the stoppage of issues of provisions from the public magazines, and of the mode by which

* No. 17.—Letter to the Landdrost of Albany respecting Mr. Mullingham, dated 28th May, 1821.—Mr. M. did not reach his destination; he was lost in the schooner Constantia, which sailed from Cape Town for Port Elizabeth, and was never afterwards heard of.

† No. 18.—Circular to Heads of Parties, dated 23d June, 1821.

payment for the issues above the amount of deposits would be exacted. This notification was followed up by fixing a period for the reduction of the quantity issued to one half,* in order that they might gradually be brought to lean entirely upon their own exertions.

It may be here proper to notice that the position of the settlers was greatly exposed to the inroads of the Caffre people, who are only checked in their system of murder and depredation, by a strong military force, kept for this purpose on the frontier. It has always been the policy of the colonial government to treat these border hordes, when possible, with humanity and kindness, and having established a neutral ground with the consent of the Caffres, (viz. the space from the great Fish to the Keis Kamma Rivers;) with the view of keeping these savages at a distance from the new locations, it sought by every practicable means to bring them to other habits; for this purpose two agents were established in the Caffre country, the Rev. Mr. Thompson and Mr. Brownlee, whose principal object is to endeavour to introduce a different course of life amongst them. These gentlemen have commenced forming a small circle of civilization, around the spot allotted to their residence; and it is presumed, that the Caffre people, seeing the benefits of religion and good order extended to that proportion of their own people who reside under the protection of these two respectable government agents, may be induced gradually to enter into the spirit of this association, and wish for its extension. This desirable object will be a work, however, of time. The annexed extract,† from the instructions under which these gentlemen act, will show the expectations which are formed on this head; and the accompanying copy of a Proclamation‡ for establishing a fair, at which the settlers and Caffres should meet for the object of barter, will convey to the reader the information he may require on this head. It may be useful to add, that a similar intercourse has been established on the northern boundary with great success, and that the Griquas, Bashuanas, and Corannas, come some hundred miles to attend at the place of annual barter.

* No. 19.—Circular to Heads of Parties, dated 20th July, 1821.

† No. 20.—Extract from the Instructions issued to the Rev. Mr. Thompson and Mr. Brownlee.

‡ No. 21.—Proclamation of July 20, 1821.

It was at this period ascertained that the calamity of blight had a second time extended itself over the wheat crops of the colony, causing, as may well be imagined, the severest distress: the old inhabitants scarcely suffering in a less degree than the new comers, who, deprived of any return for their exertions during two seasons, were in many instances reduced to the greatest misery, and felt the severest pressure of despondency. Wheat or barley were no longer to be found, and the quantity of rice in the colony was very inconsiderable. However, 1000 sacks were immediately sent up, to be issued to them *gratis*, under regulations, which will be seen in the annexure No. 22,* and an issue to a like extent was authorized, when the first 1000 sacks of rice were expended. One more exertion became likewise necessary, to enable the settlers to try their fortunes in a third season, and this was, to furnish them with seed wheat, an article no longer procurable in the frontier districts, and with difficulty in the capital itself: however, an adequate quantity was prepared, of the finest quality, and sent for distribution *gratis also*, according to the quantity of land each head of party had in preparation for receiving it, but regulated by the numbers they respectively had to feed, annexure No. 23.†

Thus the various steps taken for the protection of the emigrants are submitted to the reader, and are successively traced from the period of their landing in March, 1820, to July, 1822.

Where men have been exposed to so much hardship and inconvenience, as the settlers and their families have, many will feel dissatisfied, and writhe under the pressure of their unhappy circumstances; others, who have more fortitude, will hope for better times, and continue their exertions with renewed activity, not forgetting that it was clearly explained to them by his Majesty's government at home, that from and after the period of their landing on these shores, they were to be left entirely to their own resources; and that his Majesty's government would be at no further expense whatever, in their regard.

* No. 22.—Letter to the Landdrost of Albany, dated Nov. 15, 1821.
† No. 23.—Letter to the Landdrost of Albany, dated Feb. 20, 1822.

N°. I.

(Copy.)

Colonial-Office, Nov. 12th, 1819.

SIR,

I AM directed by his excellency, Lord C. H. Somerset, the governor, to transmit to you, herewith, a copy of a dispatch which his excellency has received from his Majesty's secretary of state, on the subject of emigration to this colony, with a copy of its inclosure, which points out the encouragement and assistance which it is in the contemplation of his Majesty's ministers to afford to this object.

It appears that Parliament has voted a sum of 50,000*l.* to be appropriated towards affording aid to those who may be inclined to remove to this colony, and that his Majesty's government has decided upon confining the application of the sum so voted to those persons who (possessing the means) will engage to bring out, *at least*, ten able-bodied individuals, about eighteen years of age, either with or without families.

It is a matter of great importance to the colony, that this attempt of his Majesty's government should not be unsuccessful, and his excellency is well aware how much the exertion of the local magistrates must contribute to a favourable result. From your intimate knowledge of the frontier, you will almost anticipate his excellency's views for the settlement of the persons who may first arrive; and his excellency is sure that you will be aware that the old line of military posts, now given up, between Graham's Town and the mouth of the Great Fish River, presents a country of great fertility and promise, and capable of maintaining, with industry, a large population; and you will at once see the advantage which the colony, as well as the individuals themselves, will derive from this portion of ground being early settled. His excellency would wish to see the abandoned farms nearest to Graham's Town first occupied; and in these occupations that it should be borne in mind, that the settlers are to be encouraged in their agricultural pursuits, rather than in the maintenance of large herds of cattle, as has been hitherto the practice of the insulated colonists who, at different periods, have occupied lands in the extensive district of Albany. This is not only

advisable, in as much as the land thus partitioned will contain a far greater number of persons, but it is also consonant to that distribution of land which his Majesty's government has pointed out. It will be desirable, that, as soon as possible after your receipt of this, you instruct Mr. Knobel to take a minute survey of the unoccupied places in the immediate vicinity of the limits of the land attached to Graham's Town, and that in his report thereon, he not only specify the quantity of land calculated for garden ground, for the plough and pasture, but that he describe with accuracy the different springs, or other water, which such places may contain or command.

Next after these, he should survey the Blue Krans, and any situations in that vicinity, where colonists may be advantageously placed; from thence he should take the direction of Waayplaats to the lower Caffre Drift post; where his excellency believes that great facilities are to be found for a very considerable proportion of settlers, who may avail themselves, in the first instance, of the hutting which was occupied by the troops. The mouth of the Great Fish River will next offer an eligible site, or the spot called the Palmiet Fontein, in its immediate vicinity. Upon these spots and the intervening ground, his excellency conceives that a greater number of persons and families may be placed than can be for a considerable time expected from England.

His excellency conceives, that when the line now chalked out is occupied, all that eligible ground shall next be filled, which intervenes between it and the mouth of the Bosjesmans River, including those fertile tracts which are watered by the Koure, Kasouga, and Kareeka.

His excellency understands that the first vessel with emigrants will sail from England in December next; and it is his excellency's intention to order them forthwith to Algoa Bay: this information will put it in your power to calculate the probable time at which they may be expected. You will see from the inclosure, that you are to provide the emigrants with the means of transporting their baggage to the places of their destination; the cost of which you will, in the first instance, defray from your district chest, keeping, however, a separate post thereof, in order that the amount may be subsequently refunded to you, either from the public funds of this government, or from the individuals, as may

hereafter be determined. Mr. Knobel's charges for surveying will be satisfied from the colonial treasury, according to the tariff of charges allowed to surveyors.

With respect to any stores which may be embarked in the ships with the emigrants, and which may be public property, a proportion of which it seems, from a paragraph of Lord Bathurst's dispatch, may be expected, you will cause such to be landed and stored at Algoa Bay, taking an inventory of them, wherein the state in which they are landed shall be expressed; but his excellency will give particular directions to the deputy assistant commissary-general, at that station, on this head, as well as relative to their subsequent issue; and it will be through the same department that his excellency will give directions for provisioning the new comers, from the moment of their arrival at Algoa Bay till that of their arrival at Graham's Town, and the subsequent necessary aid for their subsistence, until they shall have had time to provide by their own exertions for themselves.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) C. BIRD.

Lieutenant Colonel Cuyler,
Landdrost of Uitenhage.

N°. 2.

(Copy.)

Extract of a Letter written by the Colonial Secretary to the Landdrost of Uitenhage, dated Colonial Office, 25th February, 1820.

I AM to premise, that it does not appear to be in the contemplation of his Majesty's government to incur any expense on account of the emigrants, from the moment of their disembarkation at Algoa Bay. From that period, it seems to be expected that the directors, to whom these persons have engaged themselves, shall bear all the cost, either of provision or transport, to the place of their respective location, though his Majesty's government has directed all necessaries to be prepared to be furnished to

them, in case the directors shall require them, though at their own cost and charge.

His excellency is much at a loss with respect to the numbers to be expected, but he proposes sending, by the earliest opportunity, camp equipage for 1,500 persons to Algoa Bay, to be used as occasion may require; and he has instructed the assistant commissary-general to be prepared to furnish rations for one month to 2,000 persons.

It is highly expedient that the parties, as they arrive, shall be marched without delay to the places on which they are ultimately to be settled. This part of the arrangement will necessarily devolve upon you, and it is his excellency's particular desire, that you should, in person, superintend the movement of the first parties through your district, to the final place of their location, that the promptest succour may be afforded them in case of exigence.

Meanwhile, it is his excellency's desire, that you should ascertain, with as much accuracy as possible, what aid the district will want (if any) for the supply of an influx of population, calculated at 5,000 souls, for six months. It will be desirable, that you should communicate with the commissariat, and with Mr. Hart, on these points, and report the result with the least possible delay.

N°. 3.

General Plan of the Country between Graham's Town and the Mouth of the Great Fish River. [*See Plate opposite.*

N°. 4.

(Copy.)

Colonial-Office, March 22d, 1820.

Sir,

By last post, I had the honour of informing you, that the transports, Chapman and Nautilus, had arrived here, with a proportion of the settlers whom his Majesty's government has determined to locate in the Zaureveld: I am now directed by his excellency the acting governor, to acquaint you, that these settlers are under seven

directors,* with whom only this government has communication, and to whom only grants are to be given. Thus, the directors will subsequently give titles to such as may locate in their respective allotments. The names of the directors, and the number of persons attached to each, are detailed in the margin.

It has met his excellency's views, and given him much satisfaction to find, that you had it in your power to forward, by last post, Mr. Knobel's first survey. The receipt of this important and able document has enabled his excellency to direct the location of these parties from hence; and he conceives that his having had it in his power so to do, will greatly facilitate your arduous duties at this moment, and it will relieve you from the numberless remonstrances which might otherwise have poured in upon, and impeded you in your ordinary duties. The inclosed list† will clearly

Names of the Directors.	No. of Men.	No. of Women.	Persons above 14 years of age.	Children under 14 years of age.	Total.
Mr. G. Scott	14	9	4	10	37
Lieut. Crause	12	9	1	22	44
Mr. T. Rowles	11	11	4	26	52
Mr. T. Owen	10	5	..	12	27
Mr. J. Maudy	11	10	..	23	44
Mr. J. Carlisle	11	..	..	4	15
Mr. J. Baillie	96	63	13	116	288
				Grand Total . . .	507

† *Distribution of Land to Settlers per Chapman and Nautilus Transports, for the guidance of the Landdrost of Uitenhage. The Numbers refer to M. Knobel's Map.*

Directors.	Number of Settlers entitled to Land.	Number of Acres entitled to.	Land to be granted.	Nos. in Mr. Knobel's Map.
Mr. J. Baillie	96	9,600	10,000	10, 11, 15, and 16.
Mr. Crause	12	1,200	2,600	12, to be equally divided.
Mr. T. Owen	11	1,100		
Mr. T. Rowles	10	1,000	2,300	13, to be equally divided.
Mr. S. Maudy	11	1,100		
Mr. G. Scott	14	1,400	1,800	14.
Mr. Carlisle	11	1,000	1,200	out of No. 1, adjoining Mr. Hart's lands.

Colonial-Office, Cape of Good Hope,
March 22d, 1820.

By command of his excellency the acting governor,
(Signed) C. Bird, Colonial Secretary.

point out to you the situations which the seven directors are to occupy. They are numbered according to Mr. Knobel's map, an accurate copy of which I return to you, retaining the original here, as a necessary document for this office, where the ulterior measure of preparing the grants must be gone through.

His excellency has directed the acting deputy-quarter-master-general to issue to those directors such camp equipage as the scanty supply of the stores will admit, to shelter these people in their arduous march from Algoa Bay to the place of their location. A return of the quantity and description so issued will be sent to you from the proper office by this post. You will be pleased to apprize the directors of the necessity they will be under to attend to the preservation of this camp equipage, which should be returned to you the moment they can dispense with it, in order to be again used by succeeding parties; but if it be not so returned, then the whole charge thereof will be made against those who default in the restitution.

With respect to the waggons to be employed for the use of the settlers, it is clearly to be made known to them, that they must pay for them—indeed, this has been already explicitly done. Such waggons as are absolutely necessary for proceeding with the personal baggage of the parties may, in the first instance, be defrayed by you, although afterwards the amount will be made a charge from this government against the funds in its hands belonging to the respective directors; but with regard to the large proportion of stores which they have, it will be necessary that they provide for the payment of its transport previous to its leaving Algoa Bay, where, in the meantime, it must be stored and secured under the protection of the assistant commissary and such sentries as may be requisite. In default of the means of housing these stores, it occurs to his excellency, that a temporary shedding, such as is used for boat-houses, might be thrown over them, to protect them from the weather, while the packages themselves may be raised from the ground damp by dunnage.

As the transport of gunpowder by the parties (travelling as they must) would subject them to very imminent danger, his excellency has communicated to Lieut. Cole, the agent of transports, that, when the rest of the baggage and stores is landed, he is then to land the gunpowder, and apply to

Captain Evatt, to store it in the magazine at Fort Frederick; and his excellency will give future directions for its gradual removal, by small quantities, and safe conveyance; and while you will call upon Captain Evatt to take an accurate account of the several persons to whom this ammunition may belong, in order that no mistake may arise as to the proprietor, you will at the same time acquaint him, that he is not to re-issue any proportion of it without an order, in writing, from yourself; and his excellency will communicate further with you on this subject, before you will feel authorized to give any order to this effect.

Lieut. Cole has received directions to lose no time in effecting the landing of the settlers upon his arrival at Algoa Bay; and I have written by him to Capt. Evatt, to desire, that the government flats may be employed to assist in their debarkation, and in those of the stores, but to be as cautious as possible that no accidents happen in the surf, and to recommend to Lieut. Cole not to proceed in the debarkation, when he, Capt. Evatt, from his experience of the bay, apprehends danger.

There being some few cases of hooping-cough among the children, you will, perhaps, deem it prudent not to direct the march of the settlers through the town of Uitenhage; and, indeed, it appears, that it would save much of the distance, if they be conducted by the lower road, by the Jager's Drift, to the place of their location; this, however, must depend upon local circumstances, of which you only can be aware. You understand, I believe, clearly, that from the moment of their coming on shore, his Majesty's government ceases to be at any charge for the directors or their settlers; yet, notwithstanding this, the commissary-general has received instructions to issue rations to to them, "*should they require it*," the cost of which will be charged against the funds which they have deposited with his Majesty's secretary of state. The commissary will, therefore, be instructed to take returns from each director, and make his issues thereon.

It is his excellency's firm hope, that the directors and settlers will feel, that patience, industry, and unanimity are essential requisites to their ultimate success, and that therefore he may expect from them that order and submission to the laws which are necessary to their welfare. His excellency desires, however, that you will explain to them that the local

law is that to which they are now liable; that the tribunals of this colony, by his Royal Highness's approbation of them, are become, in every respect, British tribunals, to which all persons resident here are, without distinction, equally subject, and that therefore you will be prepared to enforce order, should it unfortunately be required.

His excellency desires me to add, that he has communicated to the officer commanding on the frontier his directions to afford you, from his command, any assistance you may require for the support of the civil authority. You will feel, with his excellency, the delicacy of calling for such assistance, without the most imperative necessity; in such cases, however, his excellency relies upon your usual judgment and vigour.

It is his excellency's desire, that you may be pleased to prohibit, in the strongest manner, the sale of any spirituous liquors among the settlers, not only by itinerant sellers, but by any permanent canteens.

I beg you will press Mr. Knobel for the continuation of his surveys, which will become daily more necessary to the carrying these measures of the home government into execution.

"I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. Bird.

The copy of Mr. Knobel's map will be sent by post, this dispatch going by the chapman.

Lt. Col. Cuyler, Landdrost of Uitenhage.

N°. 5.

(Copy.—Circular.)

Graham's Town, May 14th, 1820.

It being of the utmost importance that every facility should be given to the obtaining immediate shelter for the different families located in the district of Albany, his excellency the acting governor has been pleased to declare, that wood and thatch for purposes of building are from this date, for the space of twelve calendar months, matters of common use, and that no claim of trespass will be entertained against persons acting according to this notice.

His excellency the acting governor also hereby notifies, that water for drinking, as well of man as of beast, is to be used in common, provided always that the said privilege be exercised without injury to any cultivated ground.

By command of his excellency the acting governor.

(Signed) H. Ellis.

To the different Parties of British Settlers in the District of Albany.

N°. 6.

(Copy.)

Graham's Town, May 23d, 1820.

Sir,

The personal communication which has already taken place with his excellency the acting governor, rendering any statement of the motives that have led to your immediate dispatch, on the duties about to be assigned to you, unnecessary, I proceed, by command of his excellency, to give such instructions for your guidance, as the undefined state of the measure in progress will allow.

The object in view may be generally described as the administration of the more pressing exigencies of municipal law among the English settlers established in the district of Albany; your duties will, therefore, embrace the preservation of the peace, and, as far as regards civil proceeding, the settlement of disputes which are likely to arise between individuals placed in such novel circumstances of social relation.

Upon this head, it is necessary that you should be apprized of the nature of the engagements subsisting between the heads and the individuals composing the respective parties. These proceed upon two principles; the one of joint labour and equality of allotment of land; and the other of personal service for a certain time, upon fixed conditions.

The ordinary process of law does not, in the event of discussion, at once reach agreements of the first description, and the course hitherto adopted has been to induce a return to union and mutual assistance, by refusing permission to the individuals, so circumstanced, to quitt heir locations. The colonial law, which considers all persons traveling

without colonial passes, as vagrants, affords a ready mode of carrying this object into effect.

No difficulty presents itself to the arrangement of disputes where the case is that of personal service. The colonial law will compel the performance of the reciprocal duties of master and apprentice, and a reference to the particular agreement will enable you to decide on whatever case of this nature may be brought before you.

Admonition will, in general, be sufficient to enforce good conduct on the part of the master; otherwise, the threat of dismissal from the colony may be used, and it is scarcely to be expected that both will prove ineffectual.

Similar admonition, accompanied by threats of imprisonment, and, in cases of positive refractoriness and violence, imprisonment itself, may be applied to apprentices. But, in general, you will understand, that the exhibition of the power of controul and punishment, rather than the actual exercise, is most within the contemplation of his excellency the acting governor.

The instructions received from his Majesty's secretary of state provide for the separation of mechanics and artificers from their parties, with the consent of the respective heads; but so much caprice in this respect has been manifested by the settlers generally, that you will not feel yourself, for the present, authorized to grant any such permission without a specific authority from the colonial office, it being of the utmost importance, with reference to the views of his Majesty's government, that positive establishment should take place on the lands assigned; the only exception will be found in the case of artificers being required for the public works.

Although it is the intention of his excellency the acting governor that you should ultimately establish yourself in the township of Bathurst, you will, in the first instance, make a tour of the several locations, as well for the purpose of fixing the boundaries generally of the allotments, according to a memorandum which will be furnished to you by Mr. Knobel, the district surveyor, as of arranging the various petty disputes which may probably exist among the different parties; transmitting frequent reports to the colonial office, of your progress, and of such cases as may, in your judgment, require particular consideration and provision.

The colonial law being the standard to which your

judicial proceedings are to be referred, you will, on all legal questions, avail yourself of the advice of the landdrost, with whom, as well as with his deputy, you will communicate on all points connected with their respective jurisdictions.

Previous to your departure, you will, as far as circumstances permit, consult the legal records to be found in the office of the deputy drostdy, to enable you to comply with the recommendation thus conveyed.

I am further directed by his excellency to convey to you his sense of the difficulty which may possibly arise from the want of detailed instructions, and to assure you, that on every occasion, you may rely upon his actual support, and feel confident that the most liberal interpretation will be given to your motives and actions.

His excellency is not prepared, at present, to communicate the specific mode of remuneration for the services which you are about to perform, but you are authorized, generally, to charge every personal expense, as well of maintenance as of conveyance to the colonial government.

I herewith enclose copies of circular letters addressed to the different parties since their location, which will enable you to seize the spirit that has hitherto regulated the conduct and communications of your immediate predecessor.

I have the honour to be,

Sir,

Your most obedient humble servant,

(Signed) H. Ellis,

Deputy Secretary.

Captain Trappes.

N°. 7.

(Copy.—Circular.)

Graham's Town, May 23d, 1820.

His excellency the acting governor having observed the capricious manner in which permission to quit the respective parties and to proceed to Graham's Town has been given to individuals, by which the peace of that town and military cantonment is endangered, and the practice of vagabondizing, in direct violation of the colonial law, much encouraged, has been pleased to direct, that hereafter, in the event of any individual proceeding to Graham's Town for any reasonable occasion, he must immediately, if not

a head of a party, produce a permission to quit the party before the magistrate, who will exercise his discretion as to allowing him to remain. The only difference with respect to the head of a party is, that he requires no pass for quitting the location, but he must also obtain a town pass.

His excellency has been further pleased to direct, that applications for permission permanently to quit the party must in the first instance be signed by the head of the party, then transmitted to the provisional magistrate, by whom the same will be forwarded to the colonial office, from whence the permanent permission, either for residence in the district or the colony generally, as the case may be, will be issued.

Permissions of separation, for a period not exceeding one month, may be granted by the landdrost, for the district at large; for the deputy drostdy, by the deputy landdrost at Graham's Town; and for the locations in the district of Albany, by the provisional magistrate.

By command of his excellency the acting governor,

(Signed) HENRY ELLIS,
Dep. Colonial Sec.

To the different Parties of British Settlers established in the District of Albany.

N°. 8.

(Copy.)

Colonial Office, July 14th, 1820.

SIR,

I AM directed by his excellency the acting governor to inform you, that Captain Trappes, the provisional magistrate at Bathurst, has been this day directed to transmit to the commissariat officer at Graham's Town, lists of the several parties who may be actually located on the lands assigned, for the purpose of enabling individuals to receive, according to the instructions of the secretary of state, the second instalment of their deposit money.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) H. ELLIS.
Dep. Secretary.

R. Rogerson, Esq.
Assist. Commissary Gen.

N°. 9.

(Copy.)

Colonial Office, Sept. 8th, 1820.

SIR,

I HAVE received and laid before his excellency the acting governor, your letter of the 27th ultimo, inclosing a copy of one you had addressed to Mr. Assistant Deputy Commissary Johnstone, in reply to his communication to you, on the subject of the third instalment of the deposits of the settlers having been now expended in the amount of rations issued for their subsistence. His excellency entirely approves of the line you have taken; he feels that it will be impossible to discontinue the aid of rations as hitherto made to the settlers, until after the ensuing harvest, when each party shall have reaped the fruit of his exertions; but as it is not to be expected that the charge of this supply can be ultimately borne by the public, it is necessary and just, that the commissary should apprize each head of party that he will be debited with the amount of whatever he may draw in the shape of ration; and that he will be called upon to give bond at the termination of the harvest, for the value of what he shall, up to that period, have received; and that these bonds (a form of which will be furnished to the commissariat) will be secured in the nature of mortgage upon and first claim against the lands (with all they may contain) of the respective holders, to the defrayment of which the subsequent grants will be made subject.

As soon as the period of the harvest shall have arrived, it is his excellency's intention that an accurate return shall be made to him of the produce raised upon each location, and of the means the heads of parties may possess for the approvisionment of the respective individuals of their several parties. From a view of this document, his excellency will be able to decide, in what manner, to what persons, and to what extent the aid of the public stores is to be continued, subsequent to the period in question, as it must be obvious that from that moment furnishing daily rations should stop, and the several heads of parties be only supplied, from time to time, according to their numbers and means, with what, upon the lowest scale of calculation, shall be absolutely requisite to the support of the people. As, however, his excellency conceives, that many of the set-

tlers might relax in their exertions were they aware that it is in the contemplation of this government to continue to support them in any shape, he desires, that I will caution you, not to make any of this communication public, that is not immediately necessary to be acted upon: and I am further to acquaint you, that his excellency has instructed the commissary general upon such parts of this reply as concerns his department.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. BIRD.

Captain Trappes,
Provis. Magistrate, Bathurst.

N°. 10.

(Copy.)

Colonial Office, September 15th, 1820.

SIR,

I AM directed by his excellency the acting governor to acquaint you, that the expediency of establishing a court for matrimonial affairs, and a court for taking cognizance of criminal and civil offences at Graham's Town, has made it necessary, officially to promulgate your appointment as a provisional magistrate in the district of Uitenhage, and to define the limits of the district within which you are called upon to exercise those judicial powers which it has been thought fit to entrust to you, and which are fully described in his excellency's proclamation of this date, for the appointment of certain special heemraden, as conservators of the peace, in such situations in which it may appear to his excellency to be necessary. By this augmentation of the powers formerly entrusted to you, I am directed by his excellency to state, that it is not meant to revoke, or amend the instructions which you received on your first appointment through Mr. Ellis, or to limit those duties or interferences with respect to the settlers, with which at that time it was found necessary to entrust you, but by the present arrangement to aid the courts of the district, and to facilitate the ends of justice in the cases pointed out. But as it may happen, that from your ab-

sence or indisposition the inhabitants might not have it in their power to obtain, in the cases alluded to, that speedy redress which it is the wish by this measure to place in their power, his excellency has expedited his warrant to Mr. T. Phillips, constituting him a special heemraad, with powers to act in your absence, or, when you may be otherwise legally prevented from the performance of these duties, (of which you will, upon such occasions, give him due notice,) according to the terms of the aforesaid proclamation.

The limit of the district to which your judicial powers are confined is defined by a line drawn from the Fish River, passing the north-west side of Mr. Mahony's location, to the Jager's drift, on the Bosjesman's River, and including the several locations specified in the inclosed list. It will be necessary that you take into your employ an active and intelligent clerk, the selection of whom his excellency leaves to you, as well as the amount of salary to be allowed him, provided the sum of 600 rix-dollars be not exceeded.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. Bird.

Captain Trappes,
Prov. Magistrate, Bathurst.

N°. 11.

(Copy.)

Colonial Office, September 15th, 1820.

Sir,

His excellency the acting governor having had under his consideration the state of that part of your district in which the emigrants from England have been lately located, and having perceived, that it is desirable for the convenience of the inhabitants, and for the quiet and good order of the district, that certain further regulations should be promulgated on these heads, his excellency has determined, that there shall be a monthly court for matrimonial affairs, and petty cases, at Graham's Town, at which the deputy landdrost shall, as is usual, preside, with, at least,

two heemraden, acting under the same instructions as the courts of landdrosts and heemraden are guided by, in like matters, at the chief places of the several provinces, of which the usual notice will be forthwith given; but as the number of settlers, and their distance, in many instances, from the sub-drostdy, may make it inconvenient for them, in very minute cases, to go to Graham's Town, either for the purpose of procuring redress in such cases, or giving information to the magistrates on more grave subjects, his excellency has empowered the provisional magistrate at Bathurst, to take cognizance of certain matters which are defined in a proclamation issued for the guidance of special heemraden to be appointed, by his excellency's warrant, in such situations in which he may judge it requisite to extend this further aid to the magistracy and inhabitants; his excellency has thought fit to define the limits of the jurisdiction of the provisional magistrate at Bathurst, so that all collision between that officer and the magistrate at Graham's Town may be thereby avoided. This jurisdiction will embrace all the locations seaward of a line drawn from the north-west side of Mr. Mahony's settlement, to the Jager's Drift, on the Bosjesman's River, and thus include the several locations pointed out in the inclosed list; to which you will be pleased to give the necessary publicity. But his excellency having further considered, that the difference of language may be of considerable embarrassment in cases where the English settlers are concerned, he has decided upon appointing two additional heemraden for the Graham's Town jurisdiction, in addition to the heemraden already considered as belonging to the sub-drostdy; and it is his excellency's desire, that you instruct the deputy-landdrost not to take cognizance, in his court, of any case, either criminal or civil, unless one of the said additional heemraden, whom his excellency will select from among the English settlers residing in the aforesaid jurisdiction, be present, when the cause in which such English subject is concerned, shall come on, matrimonial cases excepted, in which the usual and necessary queries may be put to the parties, without its being necessary that an English member of the court be present, provided the deputy-landdrost himself be so. These additional heemraden will not, however, be furnished with the special warrant, alluded to in his excellency's aforesaid proclamation

of this date; but as it is essential to provide for the possible absence or illness of the provisional magistrate at Bathurst, his excellency has decided upon appointing a heemraad in that jurisdiction, with powers to act under such circumstances, according to the powers vested in such, by the aforesaid proclamation; this heemraad may, or may not, be called to the sitting of the court of deputy-landdrost and heemraden of Graham's Town, according as it shall appear advisable to yourself or the deputy-landdrost.

It will rest with you to put the respective parties into possession of the details necessary to their carrying these instructions into execution; and, therefore, it remains only on this subject necessary to add, that his excellency desires, that Messrs. Pigot and Campbell (of Botha's farm) may be appointed heemraden in the Graham's Town jurisdiction; and Mr. Phillips for that of Bathurst; the warrant for the special duties with which the latter is to be entrusted, being herein enclosed.

I likewise transmit to you six printed copies of the mode of proceeding in crown trials, in English; and as many copies of his excellency's proclamation of this date; and two copies in English, and two in Dutch, of the instructions for the matrimonial court; in order that you may furnish them, as may be required, to the court of Graham's Town; and to the provisional magistrate and heemraad at Bathurst.

For one step, arising out of these instructions, it appears to be immediately necessary to provide, and that is, the erection of a place of confinement for prisoners at Bathurst; a plan thereof should be agreed upon between Capt. Trappes and yourself; and you should endeavour to induce some of the heads of parties, or principal settlers, to tender for the work; after which, such tenders as shall have been received, should be transmitted hither, with the plan proposed, for his excellency's sanction.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. BIRD.

Lieut. Colonel Cuyler,
Landdrost of Uitenhage.

PROCLAMATION.

By his Excellency Major General Sir Rufane Shawe Donkin, Knight Commander of the Most Honourable and Military Order of the Bath, Acting Governor and Commanding in Chief His Majesty's Forces at the Cape of Good Hope, &c. &c. &c.

WHEREAS the increased population, consequent upon the recent location of the settlers who have arrived in this colony from the United Kingdom, has rendered it expedient to establish, in the sub-drostdies in which they are located, courts for the enregisterment of marriages, and for the cognizance of criminal and civil cases, to obviate the inconvenience to which the inhabitants would be exposed, from the necessity they would be otherwise under, of resorting to the courts of the chief place in each province of the colony in which they are settled—

I do, therefore, hereby direct the deputy-landdrost of the sub-drostdies of Clanwilliam and Graham's Town to assemble a court of deputy-landdrost and heemraden, (the number of heemraden competent to constitute such court, with the deputy-landdrost, not to be less than two,) on the first Monday of every month; at which court all the inhabitants of the proportion of the districts of Tulbagh and Uitenhage, now included in the sub-division of Clanwilliam and Albany, shall be at liberty to have their marriages registered, as customary in this colony.

And I do hereby further, direct the aforesaid deputy-landdrosts, with the number of heemraden, as aforesaid, at least, to constitute a court at the same time and place, for the trial of such criminal cases as are cognizable by the courts of landdrosts and heemraden, under the proclamation of the 18th of July, 1817; and of such civil cases as are of the competence of those courts to decide upon.

And that no person may plead ignorance hereof, this shall be published and affixed as usual.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 15th day of September, 1820.

(Signed) R. S. DONKIN.

By his excellency's command,

(Signed) C. BIRD.

PROCLAMATION.

By his Excellency Major General Sir Rufane Shawe Donkin, Knight Commander of the Most Honourable and Military Order of the Bath, Acting Governor and Commanding in Chief His Majesty's Forces at the Cape of Good Hope, &c. &c. &c.

WHEREAS the late accumulation of population in various parts of this colony, remote from the residences of the local magistrates, renders it necessary and expedient to adopt some further measures for the prompt administration of justice, in cases of misbehaviour, or minor offences, and I have, therefore, come to the resolution, to grant my warrant to certain heemraden, whose local situations may enable them to take cognizance in the matters aforesaid, under the regulations hereinafter prescribed; and to select and appoint, in the first instance, certain additional heemraden, where I may deem it expedient, who, by virtue of such appointment, shall become members of the board of landdrost and heemraden of the district in which they reside at the period of their respective appointments, and be vested with power to investigate misdemeanors, and minor offences, and decide therein, under the following instructions, viz.—

Art. 1. All complaints of persons not acting in the capacity of public prosecutors, concerning misbehaviour, (minor offences,) not liable to public punishment, and being, moreover, of such a nature, as to admit of an amicable arrangement, including all complaints of tradesmen and others, against their apprentices; of masters against their servants, whether freemen or slaves; and of servants against their masters; and further, all complaints of parents against their children, shall be subject to the judicial cognizance of any heemraad, who shall be furnished with a warrant to this effect, under my signature, or that of the governor for the time being, provided the offence has been committed within the limits assigned to his jurisdiction, which limits shall be fixed and made known, according to circumstances, by the landdrost of the district.

Art. 2. In all the cases mentioned in the preceding Article, it will be incumbent on the heemraad to endeavour to reconcile the parties: should, however, his endeavours

prove unsuccessful, a record is to be made thereof; after which he will proceed to a judicial investigation of the case.

Art. 3. For this purpose, a time must be appointed to the parties, for the investigation or trial of the case, which shall take place as soon as possible, according to circumstances, especially the greater or less distance of the dwelling places of those concerned, and of the witnesses, from the residence of the heemraad.

Art. 4. At the commencement of the trial, the complainant shall relate the circumstances of his complaint; but, previous to being thereto admitted, he shall be obliged to take the oath required in crown trials. The complainant, or accuser, having given his relation, the accused shall be asked by the heemraad, whether he acknowledges the offence imputed to him, in the act of accusation, or not? And in case he pleads *guilty*, the heemraad shall proceed to pronounce his sentence; but in case the accused pleads *not guilty*, or refuses to answer, the witnesses of the complainant shall be examined. After which, the accused shall make his defence, and the witnesses of the accused shall be examined, and this having been done, the heemraad shall pronounce, according to law, his decision or sentence. It is, however, required, that the heemraden in the judicial investigation, and in the passing of their sentences, as far as the nature of the circumstances allows, shall proceed, conformably to what has been prescribed in the mode of proceeding in crown trials, Articles 78, 79, 109, 110, 111, 118, and 119.

Art. 5. Should the heemraad, before whom a case is tried, feel doubts as to the decision or sentence which he ought to pronounce, he is at liberty to refer the case to the board of landdrost and heemraden.

Art. 6. An accurate record shall be made of the whole of the proceedings in each case, including the sentence, and as far as the nature of the circumstances admits, agreeing with what has been prescribed for the crown trials, Articles 83, 84, and 85.

Art. 7. In the case of the non-appearance of the complainant or accused, or of any of the witnesses who shall have been duly summoned; as also in case of unwillingness or refusal of any of the witnesses to give evidence, it will be incumbent on the heemraad to act according to what

has been prescribed for the crown trials, Articles 114, 115, 116, and 117.

Art. 8. An appeal is allowed from the sentences of the heemraad, to the respective boards of landdrost and heemraden of the districts in which they reside, in those cases in which a rehearing by the full board has been allowed to the parties, from sentences of landdrosts and commissioned heemraden of the districts; in which cases, the appeal shall be noted in the office of the heemraad, within five days after the pronouncing of the sentence; and a sum of 25 rds. shall be at the same time deposited in the said office, which sum shall become forfeited, in case the sentence be confirmed, or the appeal not prosecuted. The prosecution of the appeal shall take place at the first ensuing court-day, after three days being computed from the date of the pronouncing of the sentence, or if within such time the same cannot take place, owing to the distance of the dwelling places of the parties from the drostdy, then on the first succeeding court-day.

Art. 9. With regard to the execution of the sentences of the heemraden, to the forfeiture of the right of appealing, and also to the prosecution of the appeals, the mode of proceeding, as prescribed for crown trials, Articles 131 and 132; as also Articles 8, 133, and 134, shall be followed.

Art. 10. The heemraden, acting under special warrants, are also authorized and directed, within the limits of their respective jurisdictions, to summon before them any person or persons suspected, on probable grounds, of intention to break the peace; and conformably to what has been prescribed for the crown trials, Articles 95, 96, 97, and 98, are to cause him or them to give sufficient security, by bond, to keep the peace; or in case of non-appearance, unwillingness, refusal, or inability, to give such security, to take him or them into custody; for which purpose, the heemraden herein alluded to, will unite in their own persons the authority, which, in the said Articles of the crown trial, has been divided between the public prosecutors and the judges.

Art. 11. In case of the commission of crimes, which are subject to a public corporal punishment, within the limits of the jurisdiction assigned to heemraden, having my special warrant, as aforesaid, they are authorized, without

previous judicial decree, to cause the supposed offenders to be apprehended, in which cases they shall be obliged to take the depositions on oath, of one or more competent witnesses, who can give evidence respecting the circumstances of the perpetration of the offences; and in case of non-appearance of the witnesses who shall have been duly summoned, as also in cases of unwillingness, or refusal of any of them, to answer the queries, or give the evidence required, the heemraad is hereby authorized to act against such witness, as is prescribed by the 115th and 116th Articles of the proceedings in crown trials.

Art. 12. In cases of suspicion of future misbehaviour, for which the giving of security for good conduct, or apprehension of the suspected persons, shall be required, or in cases of the apprehension of offenders, an accurate record shall be kept by the heemraad, containing the deposition and evidence, duly sworn to, the contents of the bonds of security given by the suspected persons, and all such further information obtained, as shall relate to the respective cases.

Art. 13. The heemraad acting under this proclamation shall transmit, without delay, to the respective drostdies of the districts to which they belong, all persons apprehended, either for the prevention of crimes, or in consequence of crimes actually committed, together with the authenticated copies of the records relating to the cases of such persons, in order thereby to enable the landdrosts further to act in the said cases, according to the nature of the circumstances, conformably to law.

Art. 14. The field-cornets, within the limits of the jurisdiction assigned to the heemraden alluded to, shall be obliged to send, for their information and guidance, copies of their reports relative to crimes and misdemeanors committed within their field-cornetcies, as also copies of their reports after inspections or inquests.

Art. 15. Should any person feel himself aggrieved by any act or acts of the heemraden acting under this proclamation, it will be then required, that he shall address himself by memorial to the landdrost and heemraden of the district, who, upon investigation of the circumstances, shall, if necessary, afford the redress required, or otherwise refer him to the proper authority, for the purpose of obtaining redress.

Art. 16. Each heemraad acting under this proclamation, shall be allowed to appoint a clerk, whose duty shall consist, in being present at all official transactions of the heemraad, framing the necessary records thereof, drawing up summonses and requisitions, writing acts and copies, and attending to all such further official duties, as shall be required of him by his employer. The sum of 300 rds. annually will be allowed the heemraad, to defray this charge, payable out of the treasury of the district.

Art. 17. The heemraden alluded to, shall have at their disposal the services of one or more inhabitants, whose dwelling places are situated nearest to their residences, to be appointed by themselves, on whom it shall be incumbent to serve such summonses and requisitions, as they may find it necessary to issue, and to apprehend such persons, against whom the heemraden may find it requisite to issue their warrant, and to convey them to the respective drostdies, in which they shall be assisted, in case it may be deemed necessary, by one or more of the other inhabitants, regularly called upon to this effect.

Art. 18. In selecting the inhabitants for the duties alluded to in the last Article, the heemraden shall, as far as possible, select unmarried persons, burghers of this colony, not being heads of families; and unless such inhabitants, for reasons to be detailed by them, by memorial to me, or to the governor for the time being, shall have been excused from the services to which they have been appointed, they shall be obliged to perform the said services, and continue in such functions during two successive years, on pain of being considered as opposers of the lawful commands of the magistrates, and punished accordingly.

Art. 19. All burghers in the service of the heemraden acting under this proclamation, shall be freed from all other municipal duties, especially commandos, and they will, over and above the disbursements they may be necessitated to make, be allowed a certain sum for their trouble in serving summonses and requisitions, and in apprehending persons, to be regulated according to such tariff as shall be made for them; all which expenses shall be paid to them, out of the district treasury in which the heemraad shall reside, subject to reimbursement by the parties, who eventually shall have been condemned to pay the costs.

The heemraden, furnished with the special warrant alluded to above, shall take the following oath, in the court of landdrost and heemraden, viz.—

"I do sincerely promise and swear, that I will be faithful and bear true allegiance to his Majesty George the IVth, King of the United Kingdom of Great Britain and Ireland; and that I will faithfully and obediently serve his Majesty's government established in this colony; that I will do the duties prescribed by the proclamation of the 15th Sept. 1820, diligently, and to the best of my abilities; that in the performance of these duties, I will do equal and impartial justice to all parties, without fear of any of them, or of their friends or protectors."

And that no person may plead ignorance hereof, this shall be published and affixed as usual.

GOD SAVE THE KING!

"Given under my hand and seal, at the Cape of Good Hope, this 15th day of September, 1820.

(Signed) R. S. DONKIN.

By his excellency's command,

(Signed) C. BIRD, Sec.

N°. 12.

(Copy.)

Colonial Office, Dec. 14th, 1820.

SIR,

His excellency the acting governor having authorized the officers of the commissariat to issue rations of bread and meat to such of the settlers, who should stand in need thereof; which rations his excellency has directed to be delivered to heads of parties, according to the numbers of the respective parties, it has come to his excellency's knowledge, that some of the heads have, (notwithstanding their having drawn the aforesaid rations of provisions,) in various instances, stopped the issue thereof to the men of their parties, under the pretext, that such men had been refractory, or had not worked properly; I am directed, therefore, to acquaint you, that his excellency does not approve of the line the heads of parties have adopted in these cases.

But his excellency, agreeing in the principle, that if men

will not work, they shall not be fed by their employers, has desired that you may notify to the heads of parties, that if they have just complaints against their people, on this point, upon their laying them before you, and substantiating the same, you will authorize, in writing, the withholding the number of rations, according to circumstances; which number is in such cases not to be drawn from the public stores, which it is necessary, on every account, to œconomize as much as possible.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. Bird.

The Landdrost of Uitenhage,
Deputy do. of Graham's Town,
Deputy do. of Clanwilliam,
Provisional Magistrate, Bathurst.

N°. 13.

(Copy.)

Colonial Office, Dec. 21st, 1820.

Sir,

I am directed by his excellency the acting governor to transmit to you, herewith, circular letters, to be sent to each of the heads of parties in your jurisdiction, as soon as it may be practicable to have them conveyed to them. You will perceive, that it is his excellency's intention, that such arrangements should now be made, as shall lay the foundation for the future supply of the settlers, from means, which shall be independent on the civil government or commissariat.

His excellency is quite aware of the calamity of blight which has blasted the hopes of so many of the most industrious of the settlers; and his excellency will use every effort in his power, to avert the consequences, which withdrawing the government supplies altogether would, at such a period, occasion; the entire stoppage of the commissariat issues must, therefore, still be a prospective measure; but the circumstances of the country generally, in consequence of the great failure, in all its districts, by blight; and the welfare of the settlers themselves, which depends

so much on their exertions for their own support, necessitate a strict œconomy in the issues. It will be necessary, therefore, that you consult with Capt. T. S. on this subject, with the view of ascertaining from the heads of parties, and by personal inspection, what resources, from vegetables or otherwise, the settlers can depend upon; so that each shall draw no more from public stores than is absolutely indispensable. It will require great perseverance and exertion to act up to the entire spirit of this instruction; but his excellency is convinced, that you will see the absolute necessity of the measure; and that you will, in consequence, have it in your power to make him an early report on the subject.

Independent of the consideration of œconomizing the supplies, it will be evident to you, that it is necessary that some steps should be taken, which shall have the effect of constraining the able-bodied to labour; which, it is assumed, they will not be sufficiently inclined to, while too much facility in procuring subsistence without labour is afforded them.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. BIRD.

The Deputy Landdrost, Graham's Town,
Provisional Magistrate, Bathurst.

N°. 14.

(Copy.—Circular.)

Colonial Office, Dec. 21st, 1820.

SIR,

HIS excellency the acting governor deems it expedient to give you notice, that he has directed the officers of the commissariat deputy to close the account of deposits with yourself, and other heads of parties, charging against the sums of deposit to which, by the communications of his Majesty's secretary of state for the colonies, you appear to be entitled, the amount of stores, provisions, and waggon hire, with which you stand debited to his Majesty's government.

Your account will be closed to the end of this present

year, with the view of discontinuing the issue of provisions by government, as soon as it shall be practicable, subsequent to the housing of the present harvest.

His excellency the acting governor does not disguise from himself, that circumstances have occurred which will prevent many of the settlers from being yet in a position to maintain themselves from the produce of their respective locations. These circumstances, which have arisen either from the late period of the season at which the transports arrived here, or from the want of ploughs and agricultural implements, which, unfortunately, did not reach this place until long subsequent to the arrival of the settlers; or finally, from the unprecedented calamity of the blight, which has cut off so much of the just expectations of the industrious, induce his excellency (contrary to what had been his original intention) to continue to authorize the commissariat to provide, in some degree, for the failure of private resources, and to continue to issue, upon payment or undoubted security, such proportion of provisions as the respective parties may not have it in their power to procure from other sources, in a country destitute of markets.

It will be evident to you, that the greatest œconomy should pervade the system of issues; the commissariat, therefore, cannot be authorized, on any account, to issue a larger ration than what is allowed to his Majesty's troops; and circumstances may arise, which may render it impossible to issue to the settlers a soldier's complete ration, in which case a proportionate diminution in price will be made; and it is to be distinctly understood, that neither this government, nor the commissariat, can or does pledge itself to issue any specific and unchangeable ration, either in quantity or quality; as it must be obvious, that the difficulty of transport at this season, with many local circumstances, may render the exact execution of such a pledge impossible.

It will be requisite, that you give regular and early notice to the magistrate, in whose jurisdiction your location may be, of the number of rations you may from time to time require, stating therein the mode of payment you propose for the same; which mode must be clear and satisfactory, it not being to be expected, that his Majesty's government should authorize any issues of stores or provisions, unless

it be reimbursed: nor will rations be supplied for a greater number of persons than shall be actually on your location at the time of drawing for the same. It is also necessary for you to observe, that issues of provisions will only be made at Graham's Town or Bathurst.

The demand against your party for waggon hire, for their transport from Port Elizabeth to the Albany district, is very great; it was, however, clearly stipulated, that his Majesty's government should be at no expense, with respect to the settlers, subsequent to their landing; his excellency, therefore, cannot release your account from that charge, unless under fresh instructions from his Majesty's government; but he has referred the question home, for consideration, and will communicate the result to you, as soon as he shall have been honoured by a reply.

I am, Sir,

Your obedient servant,

(Signed) C. BIRD.

To the Heads of Parties.

N°. 15.

(Copy.)

Colonial Office, Jan. 19th, 1821.

SIR,

IN reply to your letter of the 6th inst. (Graham's Town, 9th inst.) I am directed by his excellency the acting governor to transmit to you herewith a copy of instructions which his excellency has given to the acting commissary general, on the subject of issuing rations to the heads of parties, whose people, in consequence of the failure of the late harvests, and in consequence of their inability to procure the means of subsistence through other channels, may still be under the necessity of leaning upon this government for immediate support.

You will perceive that in unison with the sentiment expressed in the circular to heads of parties, of the 21st December last, it is intended, under the present arduous circumstances, not to withhold the beneficent hand of government from the settlers, though it must clearly be explained to such, as shall continue to draw the aid of rations from government, that payment will be expected

from them as soon as circumstances shall enable them to meet the demand. You will point out to these heads, that, for the present, their receipts for provisions to be issued in the proportions notified to the commissary (but on no account in larger proportion) will be taken, which receipts, if the amount be not liquidated previous to their obtaining the final grants of the lands on which the parties are located, will be converted into a mortgage on the whole of the location, including buildings, stock, &c. thereon.

You will perceive that in future no provisions or stores are to be drawn by any head of party, without his having the return countersigned by you. It is by this intended to obviate the possibility of any person drawing provisions, who is not attached by proper authority to the party located; and to authorize such only to be drawn for, as are actually industrious, and so working on their lands, as to afford a chance of repayment by the increased value which may be anticipated therefrom. This discretion, which his excellency reposes in you, is one of a very delicate nature; but his excellency trusts, that your known humanity and discretion will obviate any inconvenience which might be apprehended from it, and that you will see in the measure a means of spurring on the indolent, and not of withdrawing an essential aid from the sick, infirm, or weakly.

You will observe that no stores are to be drawn without your counter signature: the object hereby is, to check any unnecessary or improper issue; and you will also notice, that henceforward no stores will be issued to parties, except upon prompt payment.

The parties under Captain Campbell, Captain Butler, Messrs. White, Francis, Latham, and Scanlam, are to draw rations for the numbers only that were landed at Algoa Bay. These rations are to be paid for by the colonial government; it is necessary therefore to observe, that any persons who may have joined these heads subsequently must be differently provided for.

It will be evident that all those who work for wages have it in their power to make immediate payment for the provisions they may require. It is further necessary that all parties shall be apprised, that in consequence of the destructive blight, which has so unprecedently afflicted every part of the colony, it is impossible that a considerable reduction of the ration may take place, as already the

inhabitants of this town have their bread made with one-sixth of barley flour mixed with the wheat.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. BIRD.

Provisional Magistrate, Bathurst,
Acting Deputy Landt. Graham's Town.

N°. 16.

PROCLAMATION.

By his Excellency Major General Sir Rufane Shawe Donkin, K.C.B. Acting Governor and Commanding in Chief, &c. &c.

WHEREAS it has appeared to me to be expedient and advisable, that a full and permanent seat of magistracy should be established in the district of Albany, in order that the inhabitants of that district, including the new locations of the settlers from England, may have the full benefit of easy access to a provincial court, and be visited annually by the regular commission of circuit from the worshipful the court of justice, I do, therefore, hereby give notice, that the province of Uitenhage shall henceforward be limited and bounded on the east by the Bosjesman's River; and, consequently, that the country to the eastward thereof, with the newly-acquired territory between the Great Fish River and the Keiskamma, and including the field-cornetcies of upper and under Bosjesman's River, of Bruintjes Hoogte, and of Albany proper, shall form the province of Albany, whose chief place and seat of magistracy shall be the town of Bathurst.

The court of heemraden for this district will consist, on its formation, of the heemraden resident within the limits of the sub-drostdy of Graham's Town. But it is hereby further made known, that these regulations shall not take effect, until the landdrost, whom I shall appoint to the new district, shall have arrived at the seat of magistracy, and taken upon himself the duties of his station. After which he is hereby authorized to make such minute arrangements with the landdrost of Uitenhage, concerning their respective

boundaries, as shall not have been provided for by this notification.

And that no person may plead ignorance hereof, this shall be published and affixed as usual.

GOD SAVE THE KING!

Given under my hand and seal at the Cape of Good Hope.

(Signed) R. S. DONKIN,

By his excellency's command,

(Signed) C. BIRD,

Secretary.

Government Advertisement.

His excellency the acting governor has been pleased to appoint the commandant on the frontier, Major James Jones, to be landdrost of the district of Albany.

Cape of Good Hope, May 25th, 1821.

By his excellency's command,

(Signed) C. BIRD,

Secretary.

N°. 17.

(Copy.)

Colonial Office, May 28th, 1821.

SIR,

THE bearer, Mr. P. Mullingham, having arrived here in the Waterloo brig, from England, has applied for leave to proceed into the Albany district, for the purpose of taking lands there, according to his means, under the general instruction of the secretary of state on this head. I inclose a copy of Mr. Mullingham's letter to me, in which he points out what the means are which he proposes to bring into this settlement, for the purpose of carrying his plans into execution. I have not thought it expedient to refuse this person a passport according to his desire; but I have very cautiously and very decidedly explained to him, that his own assertion, as to his means, will not be satisfactory to the magistrate of the interior; and that he must have better documents to prove his means than those he has produced to me, or that otherwise it will not be in your power to permit him to occupy any public

land within your jurisdiction. I have explained to him, that by the word "*means*" in the secretary of state's letter, is to be understood, either articled servants, brought into this country at his expense, and maintained for a term by him, or stock and movable property; or tangible funds in this country; all which he seems to be at present destitute of. But as he has shown me some papers, which lead to suppose that he has a command of pecuniary capital in England to a certain extent; and as he states that he wishes to see the country, in which he is anxious to settle, previous to his finally establishing himself: in these circumstances I have given him a provisional passport, to go through the country, in which he is directed to report himself to you, and he will be the bearer of this letter, which I shall also send you a duplicate of, per ordinary post.

I have the honour to be,

Sir,

Your obedient servant,

(Signed) C. BIRD.

Major James Jones,
Landdrost of the Albany District.

N°. 18.

(Copy.—Circular.)

Colonial Office, June 22d, 1821.

SIR,

I AM directed by his excellency the acting governor to acquaint you, that he has had very great satisfaction in being able to communicate to you, that a representation he had the honour of submitting to Earl Bathurst, some time ago, in your behalf, on the subject of waggon hire, had been attended with success.

His lordship has been pleased to acquaint him in a dispatch, under date 2d December, 1820, that he may "dispense with the repayment, by the settlers, of the sums which may have been advanced on their account;" but his lordship adds, that "this additional boon should enable the settlers to overcome all their real difficulties; and you will therefore apprize them, in granting it, that it is the only additional assistance which, under any circumstances, the government can afford them." His lordship concludes, by ordering

the settlers to be distinctly informed, that no rations can be issued, without payment, for any period, however limited.

The acting governor is persuaded, from the proper spirit and feeling which he has observed during his late residence in Albany, that you will receive this act of consideration and munificence on the part of his Majesty's government as you ought to do; but the best return you can make, and one which will be most agreeable to your sovereign, as well as most useful to yourself, will be the exertion of industry. You should recollect, that the cost of every ration now issued, in consequence of the late calamitous failure of the crops, will be charged against your party, and that you, as head of it, will be personally responsible for the amount; and, consequently, that every settler under you will be personally responsible to you; and that, moreover, the land you are to obtain will be mortgaged to the amount of rations issued, as has already been distinctly explained from this office.

It behoves, therefore, every settler who can possibly subsist himself, to decline the further drawing of rations, which must weigh as a debt, hereafter, on him and on his land; and after the manner in which the burthens of the whole have been lightened, by taking off the waggon hire, the personal interest of every man, as well as a sense of duty and gratitude, should spur him on to such exertion, as shall place him in the proud independence of living on food of his own earning, and enable him speedily to discharge the now comparatively small debt due to government.

I am, Sir,
Your obedient servant,
(Signed) C. BIRD.

To the Heads of Parties
located in the Albany District.

N°. 19.

(Copy.—Circular.)

Colonial Office, July 20th, 1821.

SIR,

REFERRING to the circumstances, which were notified in consequence of the interview which his excellency the acting governor had with heads of parties, in the

Albany district, in the course of last month, I am now directed to acquaint you, that his excellency has made arrangements, with the department of commissariat, to continue to heads of parties, for the settlers present on their respective locations, rations as at present issued, until the 30th day of August next. Subsequent to which, one-half of the ration now issued will only be distributed for each individual, up to the 31st day of December; and, after that day, no ration, or provision of any sort, will be issued by the commissariat.

It will, therefore, behove the settlers of your party, to provide, by every exertion and œconomy, for their maintenance, from the 1st day of January, 1822; by which time, not only their wheat crops ought to be got in, but other sources of supply should be also productive.

The accounts of the several parties will be finally closed with the commissariat on the 31st December, aforesaid; and the heads of them will then be made acquainted with the amount of debt, for which they and their parties are responsible, and for which amount their respective allotments will be specially mortgaged.

I am, Sir,

Your obedient servant,

(Signed) C. BIRD.

To the Heads of Parties of Settlers.

N°. 20.

Extracts of Instructions to the Rev. Mr. Thompson, and Mr. Brownlee.

THERE is, perhaps, no circumstance connected with the interests of his Majesty's government in this settlement, that his excellency Lord C. H. Somerset feels more anxiously alive to, than the introduction of Christianity among our unenlightened neighbours, and with it, its invariable concomitant, and greatest of temporal blessings to a people, "civilization."

Independent of the duty which his excellency feels to be imposed upon him, to give every aid in his power to the diffusion of the principles of our holy religion, thereby to be the humble means of recovering some few from the

deplorable darkness in which they are still lamentably plunged; independent of the gratification a liberal and feeling mind must experience, from having it in his power to aid in spreading the arts of civilized society among hordes still in a state of the grossest barbarism; his excellency is convinced, that he shall better consult the immediate interests of the settlements committed to his charge, and put more easily a stop to those inhuman massacres and ruinous plunderings, which take place on our border, by complying with the wish of the Caffre chief, to have a zealous and enlightened instructor sent to him, than by any acts of hostility towards the offending Caffres.

His excellency, aware that you have been educated with the view to your carrying religious instruction to the heathen, begs to say, that it is not in any shape his intention to prescribe any particular method for you to adopt on this head. He relies upon your judgment and discretion on these points. But his excellency will be desirous of regular and correct information of the progress made by the Caffre people in the principles we profess, and of the numbers who embrace the Christian faith.

His excellency's chief object, next to this of religious instruction, is, that you should constantly impress upon the chiefs, his friendly feelings in their regard; that you should explain to them his wish, that the border now fixed for the two nations should not be violated by either; that, on his part, he is prepared to punish any colonist who shall commit the most trifling offence against the Caffre people; and that it is but just, in return, that the Caffre chiefs should, on their parts, seek out and punish those who commit depredations and murders in our territory. His excellency is anxious to establish such an intercourse between the Caffre people and the colonists as shall be mutually beneficial; and for this end, he is desirous of obtaining correct statements as to their wants, and also as to the objects which they may be able to bring to Graham's Town for barter. It must take time to collect all the knowledge which this object requires; but every now and then, an additional observation or hint will add to the stock of information we possess, and be essentially useful.

There is great reason to believe, that, notwithstanding the long intercourse which has subsisted between the colony and the Caffres, the information we possess, relative to that people and their country, is very incorrect and inade-

quate; it will, therefore, be a most important object for your leisure, to collect as much information on these points as possible, and to furnish the colonial government therewith. The strength and positions of the border chieftains, their relations to each other, and the peculiar features of their social compact, are subjects of the greatest moment to be correctly informed of. We wish also to be in possession of their mode of culture, and the treatment of their cattle—in short, it will be highly interesting and instructive to have, by degrees, the most minute details of their œconomy.

The line the colonial government has adopted, with respect to Caffre plunder, is to follow it, if possible, to the first kraal it can be tracked to, and there to insist upon restitution, or equivalent. This system has restored confidence on our side of the border, but is naturally not relished on the Caffre side, and it has led to some lamentable acts of hostility. It is greatly to be wished, that the necessity of such a system should be done away, and herein the benevolent exertions of an enlightened adviser may be greatly useful. Nothing can be more clear than the immorality of the Caffre aggression on the colony; nothing more distinct than the peaceable and friendly views of the colonial government towards the Caffres. It requires, therefore, that they should be convinced of their injustice, and that they should also see the impolicy of their proceedings. If they live at peace with the colony, their own welfare may be secured by it, and their wants supplied; a contrary system brings upon them those evils which have visited their people ever since it became necessary to expel them from our territory.

N°. 21.

PROCLAMATION.

By his Excellency Major-General Sir Rufane Shawe Donkin, Knight Commander of the Most Honourable and Military Order of the Bath, Acting Governor and Commanding in Chief His Majesty's Forces at the Cape of Good Hope, &c. &c. &c.

WHEREAS the landdrost of the frontier district of Albany having, by my express desire, had an interview with the

Caffre chief Gaika, for the purpose of cementing the friendly relations which happily exist between the Caffre people and the colony, it has been stipulated, amongst other things, that an annual fair shall be held on the banks of the Keiskamma River, for the purpose of supplying the Caffres with such articles as they have been in the habit of obtaining from the colony, through the channel of government, but which they have not regularly procured since the period at which the disturbances of the year 1818 broke out. These, therefore, are to give notice, that an annual fair will accordingly be held, under the following regulations, which shall be subject to such alterations and modifications as, from time to time, shall appear to me, or to the governor for the time being, to be necessary, viz.—

1st. The landdrost of Albany, after having arranged with the Caffre chief Gaika, the spot on which a fair is to be held, for the object of supplying the Caffres with such articles as they may require, in barter for cattle, or the produce of the Caffre country, is to give notice within his district, and to the landdrost of Uitenhage and Graaff Reinet, of the time fixed for the intended fair, which he will also arrange with the Caffre chief.

2d. As in this first attempt to establish a regular traffic with the Caffre nation, it will be essential to enforce the strictest order, it will be desirable that the landdrost of the district shall attend in person, if possible; or, should he be prevented from so doing, that he should depute one of the special heemraden to superintend the regularity of the transactions.

3d. The landdrost shall appoint a clerk of the market, who shall take a regular account of the transactions of the fair, which shall be afterwards made public through the channel of the Cape Gazette.

4th. It shall be the duty of the superintending magistrate, to annul all transactions of the fair, which shall appear to him not to be just towards the Caffre people, so that they may thereby be secured an adequate compensation for such cattle or produce as they may bring for disposal.

5th. The fair shall open one hour after sunrise, and terminate one hour before sunset. No transactions entered into out of the hours of the fair shall be considered legal.

6th. The landdrost shall not permit any persons from the

colony to attend the fair who have not articles to dispose of, it being of the greatest importance to public peace and security, that all crowding should be prevented. The landdrost, or superintending magistrate, will therefore use the most summary means to send away such persons as are above described.

The landdrost, or superintending magistrate, shall also make arrangements with the Caffre chief, in order to obviate the consequences which might ensue from the Caffres crowding upon the colonial venders, and thereby exposing their property to the plunder of the Caffres.

7th. The landdrost, or superintending magistrate, shall be careful to be attended by as many interpreters as he can conveniently collect, for facilitating the intercourse of all concerned. The landdrost will also require the presence, during the fair, of Mr. Brownlee, the colonial agent in Caffraria.

8th. The landdrost shall stipulate with the Caffre chief Gaika, that the Caffres shall attend the fair unarmed; and it will also be desirable, that the Caffre chief permit such such Caffres only to attend, as may have cattle or produce to dispose of.

9th. The disposal of spirits, wines, beers, or other liquors, whether by sale, barter, or gift, is peremptorily forbidden; and should the landdrost discover any such to have been brought to the fair, (unless for the immediate want of those persons who may be in possession of them,) he is hereby authorized and directed to seize and spill the same, and to inflict such summary punishment on the bringer or distributer (including corporal punishment) as shall to him appear equitable. The consequence of intoxicating the savages, or any proportion of them, might, and probably would, prove fatal to the best interests of the settlement.

10th. It is, in like manner, most strictly forbidden, to take to the fair, for sale or batter, or to exchange, or give away there, any fire-arms or ammunition. Any person offending against this regulation shall be punished by the superintending magistrate, as in the cases alluded to in the last article. And all fire-arms, or ammunition, found in possession of persons attending the fair, unless the same be *bona fide* for the immediate use of the person who shall have such in possession, shall be seized and sold, for the benefit of the treasury of the Albany district.

11th. The landdrost or superintending magistrate, is hereby authorized and directed to use the most summary means in keeping the peace; and is empowered to arrest, and send away in custody, any person who shall not demean himself with due order. It is most urgently recommended to the inhabitants who may attend the fair, to be as courteous and kind to the Caffres as possible, in order to inspire them with that confidence, which is requisite to ensure a continuance of friendly intercourse with these people.

12th. The landdrost of the Albany district is also hereby empowered to make such further local regulations as shall appear to him to be necessary, to give full effect to my intentions in this regard; and he will, in his capacity of commandant of the troops on the frontier, take such precautions as will be pointed out to him, through the military channel, to obviate any inconvenience which might arise from accidents, unforeseen at the present moment.

And, that no person may plead ignorance hereof, this shall be published and affixed as usual.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 20th day of July, 1821.

(Signed) R. S. DONKIN.

By his Excellency's command,

(Signed) C. BIRD,
Secretary.

No. 22.

(Copy.)

Colonial Office, Nov. 15th, 1821.

SIR,

His excellency the acting governor, having taken into consideration the great distress which the second season of blight is likely to cause among the English settlers in the Albany district, has directed me to acquaint you, that he has come to the determination of affording them such further aid in the unfortunate circumstances in which they are placed, as may be in his power; but the calamity which has affected the crops on the frontier, having been nearly general throughout the colony, his excellency finds it impracticable

to afford any assistance by the issue of either wheat or barley, and he is necessitated to confine himself strictly to that of rice in a very limited proportion. His excellency has, therefore, shipped on board the brig Alacrity, Findley, master, 1000 bags of rice, of 152lbs. Dutch weight, each, which rice is consigned to the commissariat department on the frontier, and is to be issued, *gratis*, to the settlers under your authority, (the charge being borne by the colonial government), subject to the following instructions:

1. The landdrost of Albany is authorized and directed to appoint a committee of two heemraden, at least, to inquire into and report to him the means and necessities of the inhabitants of the several locations of the settlers from England.

2. Grounded on this report, the landdrost is hereby empowered to direct the commissary to issue to such heads of parties as shall require assistance for the individuals of their respective parties, at the rate of half a pound of rice per day for each individual, whether male or female, or children above the age of five years, but no more, upon any account; for children under the age of five years a quarter of a pound, only, per diem, is allowed to be issued.

3. The landdrost's order in writing to the assistant commissary general will be that officer's discharge for the stores issued by him, but that only.

4. The landdrost is not authorized to cause rice to be issued to any persons who are reported to him, by the committee aforesaid, (and the committee shall make it a point of their inquiry,) not to employ themselves, or to have useful occupation which shall be calculated to assist in their own support. Thus, all persons in public or private employment, or who have sufficient employment in their own agricultural pursuits, are considered as proper persons to receive the assistance which his excellency hereby holds out to them; but, as his excellency is of opinion that the aid of rations has, in many instances, caused inattention to procuring such food as, in this period of calamity, might have been essential for the maintenance of the party, and that even the present aid may tend to encourage a continuance of idleness, already too prevalent, his excellency is peremptory in his instruction, that the landdrosts do not afford aid to such as have not useful employment.

5. Aged persons, sick or infirm women or children, do

not fall under the denomination of those pointed out in the last article.

6. The issues are to commence on the first day of January next, 1822, and will be continued for a period of three months.

7. His excellency is perfectly aware of the insufficiency of the above issue to the entire subsistence of the individuals; but as meat is procurable by the industrious, he is compelled to refer them to their own resources for the remainder.

8. As many settlers are employed independent on their locations, and, in the dearth of bread-corn, may nevertheless require the assistance intended hereby to be afforded, the landdrost is directed to classify such individuals into companies of tens, so that the issues from the commissariat may be made as easy as possible, and that individuals shall have no reason to press upon the stores when opened for distribution. It is therefore also recommended, that issues be made for a certain number of days at each time, according as the assistant commissary and landdrost shall deem it expedient to fix.

9. It appearing from information which his excellency has received, that potatoes thrive well in the Albany district, and yield particularly fine crops, the landdrost is directed to call the attention of the settlers to this essential and speedy means of supplying the deficiency of bread-corn, and the landdrost is empowered hereby to offer premiums to such as shall bring the greatest quantity to Bathurst, or Graham's Town markets, within a given time, regulating, according to his judgment, the rate of premium which should be so given for a proportion exceeding a fixed quantity of produce.

10. The landdrost is directed to make public the present instruction and letter, in order that the settlers may know his excellency's sentiments fully, and be quite aware of the extent of aid which can be afforded them, and in order that no individual may deceive himself in the present circumstances, and rely upon assistance which it is not and cannot be in the power of the colonial government to afford him.

11. The landdrost will make known, at the earliest possible period, to his excellency the governor the number of persons who will have to be provided for under this instruction, and he will forward, likewise, for his excellency's infor-

mation, copies of the proceedings of the committee, to be formed according to the first article of these instructions.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. BIRD.

Major Jones, Landdrost of Albany.

N°. 23.

(Copy.)

Colonial Office, February 20th, 1822.

SIR,

I AM directed by his excellency, Lord C. H. Somerset, the governor, to acquaint you, that he has taken measures to procure, and send down to the Albany district, 500 muids of the best Cape seed wheat, of the beardless sort. This wheat is consigned to the commissariat department, and is to be issued from thence, on your orders; in issuing which, you will be pleased to be guided by the following instructions. It is intended to give this seed wheat to heads of parties, or settlers from England, located independently, but to no others, in such proportions as they may respectively require, for the supply (by the produce) of what is requisite for the consumption of the persons located under each head of party, for one season, provided it shall be made clear to you, that the head of party or independent settler has sufficient land prepared for the reception of the seed intended to be given to him. The quantity necessary for the consumption of an adult must not be computed at more than one and a half muid of wheat for the season, that quantity producing 405lbs. of bread. The produce must be calculated at the rate wheat usually gives in the Albany district, which it is believed will not be found to be less than twelve for one; thus: a person having ten adults in his party, will require fifteen muids of wheat for a season, which will be one muid and a quarter of seed; this, of course, does not contemplate a surplus to the growers; but such persons as have the means of sowing more than what is here provided

for, must, of necessity, procure for themselves the seed they require.

You will perceive that the quantity of seed his excellency has thus provided, is ample for the supply of the number of settlers in your district; for supposing the wheat to yield ten for one only, then the produce would be 5000 muids, which, at 270lbs. of bread per muid, will give 1,350,000lbs. of bread, which will be a twelvemonth's consumption for upwards of 3,300 persons, or for nearly 1,000 more than drew rations at the end of December last.

In a former letter, I communicated to you, that his excellency had consigned to Mr. Hart, of Somerset's farm, 360 bags of Bengal wheat, which he had authorized Mr. Hart to dispose of to such settlers as should require it, at the prime cost of twenty rix-dollars per bag of 150lbs.; but his excellency having since received more positive assurance of the security of sowing Bengal wheat, his excellency has sent an additional quantity, with the view of permitting such settlers as may choose to run the risk of sowing the same, to exchange the wheat which is to be given them, as above-mentioned, for Bengal wheat.

His excellency is well assured that you will entirely appreciate his motives and intentions, and that you will cause the same to be given effect to, in the spirit which has guided his excellency in the adoption of this benevolent measure.

I have the honour to be,
Sir,
Your obedient servant,
(Signed) C. Bird.

H. Rivers, Esq. Landdrost of Albany.

CHAPTER XI.

CONDITION OF THE SETTLERS.

From the foregoing chapter, it is evident, that those who administered the local government of the colony were not consulted on the prudence or wisdom of allowing so large a body of emigrants to sail for the Cape of Good Hope. The first public notification of such an intention arrived on the 19th November, 1819, and the ships left England in the following December and January. After the landing of the settlers in March, and the following months, it is proved by the documents, that every possible attention and despatch were shown in providing for the wants and for the early location of the parties, but not without a very heavy expense to the colony; it was, however, out of the power of government effectually to administer to disappointed hopes; but every practicable endeavour was used to allay the irritation of the moment. Unfortunately, the settlers embarked with unbounded expectations caused by injudicious and erroneous statements in pamphlets and in speeches, descriptive of a climate and of fertility known only in romance. In many of these publications, advice was given for the guidance of the settlers by mere theorists. To those who left Great Britain, without other funds except the deposit in the hands of government, it was easy to give counsel. Whether at home or abroad, their lot in life must, in all probability, continue to be humble; and, in quitting England, they incurred little loss, except that of time. Others, who might embark a capital from three hundred to five thousand pounds, received also, in these pamphlets, their share of instruction for colonial life; when, in truth, the most beneficial and rational advice, and that which every one really acquainted with the colony would have given, would have been to stay at home, and endeavour, if not to improve, at least to preserve from loss what they possessed. There may be an exception with regard to those, if any such there are, who have unfortunately become so disgusted with their native country, and its system of government, as no longer to be able to endure fancied or real evils; and, in such case, it is most prudent to retire. After the arrival of the settlers, and during the anxious endeavour of the colonial government to fix

them in suitable locations, great dissatisfaction appeared. Two ships sent from Simon's Bay arrived at Saldanha Bay, the nearest port of debarkation for Clanwilliam, which was the spot destined for the parties from Ireland. One party became clamorous for a location at Saldanha Bay: but the government had there no disposable land;* and the alternative which remained to those who refused Clanwilliam, was to continue their voyage to Algoa Bay, or to give up their claims. Some gave up all right to location; and for those who decided to proceed to Clanwilliam, waggons were provided by the landdrosts of the intermediate drostdys.

The distance from the bay to Clanwilliam is about eighty miles; and at whatever place the settlers halted in their progress, the greatest kindness and generosity was displayed by the boers. Aware of the wants and sufferings to which the settlers were doomed, they could not refrain from expressing infinite astonishment, that men could be induced to leave their native home to settle in a country of whose qualities and powers they appeared to be wholly ignorant; when, with their own local knowledge, long experience, and unabated toil, they could with difficulty subsist, and bring up a family, to undergo, in their turn, the same hard and unceasing labour.

On the arrival of the settlers at Clanwilliam, the clamour of disappointment continued; some of the families, and many individuals, gave up their locations, and returned to England; a few settled at Cape Town; and the remainder were finally added to the settlers in Albany.

It is not easy to calculate the degree of advantage which the settlers expected. The growth of prosperity at Clanwilliam appears to have far exceeded any thing displayed by Albany. On that which has been underrated, time and experience frequently affix a just value; and in the history of the locations, no estates have, as yet, attained a celebrity in the Cape newspaper equal to those of Clanwilliam.†

* Except the government post, which has since been sold by the government, and purchased by one of the heads of parties.—Ed.

† John Ingram offers for sale, by private contract, the whole of his estates, adjoining the deputy drostdy of Clan William, consisting of about 5,000 morgen of corn and excellent pasture land, in such lots as may be agreed on; also, two pieces of land at the Kleine Valey, one consisting of 100 morgen, the other about 166 morgen; and an erf, let to J. H. Nieu-

The extent of land in Clanwilliam, of good quality, appears to have been inadequate to the establishment of the Irish emigrants. The expectation and understanding were, that the parties from England, Scotland, and Ireland, having different manners, customs, and sometimes language, should be placed in distinct locations. The colonial government may be considered injudicious in attempting to locate the Irish where the allotment of fruitful corn land was too limited for the whole party. It gave a colour for complaint; although a due proportion of land in Albany was offered, and was accepted by many. Some have obstinately refused a location either there, or in Albany; and fixing their standard on the

would, at the Taaybosch Kraal, at the yearly rent of twenty muids of wheat, payable on the first of January, every year, for ever.

"The whole of the above lands, if not disposed of by the eleventh of June next, will be positively sold by public auction, at Patryze Valey, on that and the following day, (11th and 12th June;) when a sale will be held, without reserve, of all his farming stock and implements, consisting of about 100 draught oxen, European (Vaderland) cows, horses, sheep, goats, ploughs, waggons, &c. &c.; also, household furniture, carpenters' and smiths' tools, and a great variety of merchandize, too numerous to insert.

Terms:—One third of the purchase-money of the estates to be paid, in cash, within one month; the two-thirds may remain at interest for one and two years, on mortgage of the estate.

*** Good farmer's fare,—lots of wine, and a fiddle.

To BE LET, in a new town, proposed to be built, immediately opposite the drostdy of Clan William, several lots for building, containing two acres of highly fertile garden land. The subscriber will give to each person, to build a house, agreeable to a plan in front, laid down by him, 100 rix-dollars worth of timber, and not to commence rent for three years; or at such other time as may be agreed on. There is a constant supply of excellent water all the year, commanding every lot, and offers to industrious tradesmen the greatest prospect of success.

A fair is proposed to be held on the lands, every first of September, when the proprietor will give the following premiums:

To the person who shall sell the greatest number of oxen, not being less than 50, rix-dollars 20.

To the person who shall sell the next greater number of oxen, not being less than 40, rix-dollars 15.

To the person who shall sell the next greater number of oxen, not being less than 30, rix-dollars 10.

Similar premiums for cows.

Similar premiums for sheep and goats, having sold, first class premium, 400, and upwards; second, 300, and upwards: third, 200, and upwards.

Similar premiums for Spanish sheep. First class, 200; second, 150; third, 100.

Similar premiums for horses, having sold twenty.

October 4th, 1821. Apply to JOHN INGRAM, Bloomfield Lodge.

*** Further particulars will be expressed in a future advertisement.

insufficiency of Clanwilliam, harassed and annoyed the colonial government with unceasing and unreasonable demands.

Nor are affairs in a more pleasing or composed state in the district of Albany. Attempts have been made to procure public meetings of the people at Graham's Town, for the purpose of petitioning the king and parliament for a redress of grievances.

In order to check such an anomaly in South Africa, the colonial government has thought it necessary to issue a proclamation declaring such meetings to be illegal, and those who give attendance to be guilty of a high misdemeanour.*

* PROCLAMATION,

By his Excellency the Right Honourable General Lord CHARLES HENRY SOMERSET, one of his Majesty's most honourable Privy Council, Colonel of his Majesty's First West India Regiment, Governor and Commander in Chief of his Majesty's Castle, Town, and Settlement of the Cape of Good Hope, in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice Admiral of the same, Commander of the Forces, &c. &c.

WHEREAS it has been represented to me, that certain individuals (probably ignorant of the laws of the colony) have proposed to convene public meetings, for the discussion of public measures, and political subjects, contrary to the law and usage of this place; I deem it, therefore, necessary thus, publicly, to notify, that all meetings, so convened, are contrary to law, and that every person who attempts to convene any meeting or assemblage of such nature, without my sanction and authority, or the authority of the chief local magistrate, in distant districts, where the object of such meeting may be of so urgent a nature, that my authority and sanction cannot be obtained, or any person attending such unsanctioned meetings, is guilty of a high misdemeanour, and is severely punishable for such offence; and I, moreover, hereby warn all persons who may, notwithstanding, be induced to convene, or attend, any such public meeting, that the local authorities have been authorized and required to disperse the same, and after the promulgation of these presents, to arrest and bring to justice, all and every individual who shall infringe the ancient laws and usages of the colony entrusted to my care.

And, whereas certain ignorant, malevolent, or designing persons have thought proper to assert and insinuate that the governor of this Colony is not duly made acquainted with the petitions or complaints preferred by those who feel themselves aggrieved, or who have occasion to address me, as his Majesty's representative, on their respective cases and interests, I do, therefore, deem it advisable to acquaint all persons, that in no instance is any petition, memorial, or letter, addressed to this government, which does not come under my immediate cognizance, or in which the order is not given under my own hand; and that, in most instances, the contrary supposition is alone adduced, to cover language and expressions which could not be tolerated, if addressed immediately to his Majesty's Representative, without offence to the laws in this case provided.

And I do hereby further make known, that, participating most anxiously and sincerely, in the distress which has been unavoidably felt, from the

Captain Synot, a head of one of the Irish parties, has been appointed landdrost of Clanwilliam; and the colonial law, by which they are governed, (of which they were informed in England,) is administered by an individual of their own nation.

Having explained the circumstances attending the settlement of Clanwilliam, it is now necessary to follow the larger number of the settlers. It was an object of desire with some, to be fixed on the banks of the Knysna. They appeared to remain under the delusion of supposing all South Africa to be at their will, and that, like Shem, Ham, and Japhet, they were to sally from the ark, and pitch their tents on the land of their choice. The country on the Knysna has long been in the possession of an English gentleman, who, retiring from his profession, acquired that grant of land, then neglected and unoccupied. The stranger, whether travelling on duty or for amusement, here finds a kind welcome, under the hospitable roof of a benevolent and well-educated man; and is introduced to the picturesque scenery of this interesting property, with its park-like grounds, its mighty woods, and neighbouring rivers and bays. The courteous owner of this beautiful domain has a family of nine children, amongst whom, by the colonial law, all (except the woods, which are the property of government) will eventually be equally divided; forming an establishment for nine families, wisely instructed in such arts, and in such knowledge, as will be most useful in their future progress through life.

total failure of two successive harvests, and various other causes, by such of my countrymen as sought an asylum in this Settlement, in the year 1820, I shall unceasingly court every opportunity of redressing their real grievances, and of promoting their general and individual welfare; but that it is, at the same time, my firm determination, to put down, by all the means with which the law has entrusted me, such attempts as have been recently made to disturb the public peace, whether by inflammatory or libellous writings, or by any other measures, of which I give those concerned this public warning, that no one may have cause to plead ignorance of the laws of the colony, when called to account for transgressions so materially and injuriously affecting the public peace.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 24th day of May, 1822.

(Signed) C. H. SOMERSET.

By command of his Excellency the Governor,

(Signed) C. BIRD, SECRETARY.

Being landed in Algoa Bay, the generality of settlers had to proceed above one hundred miles to their locations in Albany, in waggons hired at the colonial expense. They received one-third of their deposit-money, according to the agreement in England, which was, one-third to be paid on landing; one-third on the location; and the remaining third three months after. As no market existed at Algoa Bay, the commissariat of the frontier army was ordered to provide rations for the new comers. However objectionable this system of rations has since proved itself to be, at that moment there were no other means of supply. Arrived at Graham's Town, the head of a party was permitted to draw from the commissariat one month's rations for the whole of his people; which supply, as well as any future, were to be placed to the account of the second and third instalments of the deposit. They thus entered upon a system, which, however convenient, proved to be a great discouragement to industry, by enabling the idle to acquire food without labour.

If, instead of this arrangement, the second instalment of one-third, due upon their locations, and the last, three months after, had been paid according to agreement, and a depôt of flour and provisions had been opened for sale by the colonial government, the earnings of labour, with the deposits, would have enabled them to purchase necessaries, and would have compelled the poorer class to work, that they might have wherewithal to buy food. It was surely in vain to expect men to work whilst subsistence was delivered out to others who were idle; and it had the effect of causing the few, who were industrious, to insist upon exorbitant wages. By the continuance of the system of rations during the last two years, the whole deposit-money is expended, and an arrear incurred, which it is not in the power of the heads of the parties to discharge.

The rations have now ceased; but one half pound of rice is daily given to each person on the location; and seed corn has been delivered gratis, sufficient to produce, under a good harvest, one and a half pound of bread per day, during the next year, for every individual in the family of a settler, having land prepared to receive it.

An ample harvest would materially diminish both the present discontent and the pressure on the colony. Two unfavourable seasons have successively prevailed; a third

now advances, doubtful and untried.—"Paul planteth, Apollos watereth, but God giveth the increase." To relate the wretchedness of many families in Albany, their menial services, even that of females, unused to such duties, tending their own cattle, bare-footed and half-clothed; to recount the individual distress experienced at this moment, together with the sufferings of the time which is gone by, and the slender hopes anticipated from that which is to come, would be as painful as it is useless. The inhabitants of the Cape colony have little except annual income; yet they have cheerfully assisted, on various occasions, in the relief of the strangers; and a fund, called the Settlers' Fund, has been formed by the subscription of individuals, and appropriated to those cases which specially call for relief. But what avails a collection, which can never rise to any considerable amount, or be regarded as a permanent resource against the accumulation of distress, which now appears to impend over the emigrants to the Cape of Good Hope?

The numbers originally located in Albany consisted of 1610 men, including 57 directors; of 659 women; and 1467 children; in all, 3736; exclusive of detached parties.

There appear to be now remaining on the location list—

	Men.	Women.	Children.	Total.
	552	403	935	1890
Absent; but within the drostdy	451	171	365	987
	1003	574	1300	2877
	Males.	Females.		
Births on the location .	88	86		174
Deaths	22	7	48	77

There have been twenty-six marriages on the location. The births, deaths, and marriages of those who are absent are not included, nor at present ascertained.

The total number of acres of land ploughed and cultivated amounts to 1454; and the greatest number of settlers who have drawn rations at any one time, is 931 men, 569 women, and 946 children; the expense of their rations, in the year 1820, amounted, after deducting the second and third instalments of the deposit, to 57,000 rds.; and that of 1821, to 195,000 rds.

The large proportion of men absent from the locations, will account for the small quantity of land in agriculture.

Tradesmen and mechanics have naturally resorted to the villages for employment. The majority of absentees are in Graham's Town, where the rate of wages, equal to that of the Cape, enables them to gain a livelihood, and purchase food for their families. It is difficult to see how otherwise the colonial government could have provided the entire means of their supply. The two successive failures of the corn crops, and of potatoes, have produced great distress; and the generality of settlers have not eaten bread for many months; Indian corn, or maize,* is the only grain that gives encouragement to the grower.

The plan adopted by the home government, of placing mechanics, labourers, and paupers on locations, in order to become proprietors of land, has failed. It is acknowledged, that without regular gradations, society cannot be maintained; and it would have been more beneficial to all the parties, to have allowed such persons at once to fall into that rank, in which they were naturally included by birth, habits, and professions.

Government originally stated its determination to allow those to go to the Cape, who, possessing the means, engaged to carry out, at the least, ten able-bodied men. The head of the party was considered to be the master of the others, who could only be ranked as servants, looking to him for support. There are not above ten or twelve so constituted; the remainder consisted of mechanics and others, each paying his own deposit; and of paupers, who have had their deposit paid by their parishes. The parishes, having a redundancy of population, were allowed to select "an intelligent individual to take charge of a not less number than ten families; and to such an individual government would grant land in the proportion of 100 acres to each family." It must have been in contemplation, that the individual should himself be independent, and in a situation to employ the paupers under his care; but in many cases the individual proves to be a pauper himself. The parishes, in order to get rid of ten families,

* It ought to have been the primary object of attention; and next to it, holcus Cafrorum, with other grain suited to the soil and climate; instead of wheat.—Ed.

advance one hundred pounds, which, when returned to them after landing, is to be their capital, for cultivating one thousand acres of African land. This is, in fact, only changing the poor-house from the mother-country to the colony. The natural course of events, which acts forcibly on all human affairs, frequently corrects the blunders of man and of governments; and, it is to be hoped, may in the end establish the prosperity of the hitherto unfortunate emigrants; but as Hercules assists that waggoner only who puts his own shoulders to the wheel, individual industry must lend its aid.

There are two measures which appear to present a chance of giving some small aid to the settlers in Albany. The one is, the repaying to them the amount of the second and third instalments of the deposit; and the other, the granting an immediate title to the land of their location, with power to alienate.

It is surely unnecessary to urge an abandonment of all debt due to the commissary for the rations, beyond the sum of the second and third instalments, which he withheld. Part of the settlers have had a return of the whole of their deposit, and received rations also; and it is a serious mortification to many, reflecting on their own penny less situation, to compare it with that of a neighbour, not more industrious and active than himself, and perhaps less deserving, who has received his whole deposit, and is not charged at all for his rations.

With respect to the other measure, it must be confessed, that whatever the strict letter of the original compact might have been, it has, in the issue, turned out most unfavourably to the settlers; and that the government is bound to grant every possible indulgence, and to act generously. The grant to each locator, of an immediate title to his land, liberated from all quit-rent, now and for ever, would give a chance of relief and succour, by borrowing money on the freehold, or by a sale; and who can deny the claim of British subjects, leaving home so misled, to receive the immediate ownership of that, for which they have so greatly suffered?

If the result of this measure was to be a cause, as it probably would, of the locations merging, by purchase and sale, into fewer hands, forming large farms, great benefit would arise, and part of the evil would be remedied. The settler

would have the means of departure from the land, leaving larger proprietors, who, instructed by the past, would soon discover that Albany is calculated for the growth, rearing, and feeding sheep and cattle; and that the plough can never be the object in chief, and must remain merely auxiliary. When the dispersion of a dense population takes place, which, either observation of the nature and soil of the country will teach, or starvation will enforce; this description of more considerable farmer may, with industry, pass his life in the probable enjoyment of a sufficiency of food; but to expect agricultural settlers to thrive, who are located six hundred miles from the market of the capital, from which they are shut out by mountains and distance;* to expect men to become wealthy, who are placed on a coast one hundred miles distant from the sea, presenting no harbours, and having bays as tempestuous as the ocean itself, rivers unfit for navigation, a frequent drought of five or six months, and an insufficiency of water for the greater part of the year, must be the vainest of all human hopes, and the greatest of all human delusions!

Before these remarks can be issued from the press, the prospect of the colony, as to its next harvest, will be decided. Excessive rains, hurricanes, and torrents, have, within the month of July, desolated the whole colony on the Cape side of the mountains, overwhelming houses and land; and on the other side, a drought of four months, attended by a frost, which has destroyed all garden vegetables, still existed on the 23d of July, in Graham's Town, the capital of Albany; all of which are equally destructive of the crops sown in May and June, and present an impossibility of making further addition to the seed already in the ground. If the harvest be deficient, it is to be expected that the settlers will abandon their lands in a body. Mean time constant applications are made to the colonial government for permission to return to England; and to the local authorities, for leave to quit the locations in search of employment at Cape Town. The heavy calamities of the present season press with irresistible force, from the general state of affairs at the Cape; and Great Britain must inevitably be called upon, for a temporary pecuniary assist-

* It is a journey of above one month, in an ox waggon.

ance, to remedy the present distress, too heavy for colonial resources.

"If it be in the dispensation of Providence, to deny, for the third time, the blessing of an abundant harvest, no expectation can be rationally formed, other than that of extreme and general distress throughout the whole colony of the Cape of Good Hope.

APPENDIX A.

PROCLAMATION.

By His Excellency, DUPRE Earl of CALEDON, Viscount ALEXANDER, and Baron CALEDON of CALEDON, in that part of the United Kingdom of Great Britain and Ireland called Ireland, and one of the Representative Peers of that Kingdom, Governor and Commander in Chief of His Majesty's Castle, Town, and Settlement of the Cape of Good Hope in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice Admiral of the same.

WHEREAS it appears, that the provisions made from time to time, for securing the fulfilling of contracts of hire between the inhabitants of this colony and Hottentots, are not sufficient for the intended purpose; and, whereas, for the benefit of this colony at large, it is necessary, that not only the individuals of the Hottentot nation, in the same manner as the other inhabitants, should be subject to proper regularity in regard to their places of abode and occupations, but also, that they should find an encouragement for preferring entering the service of the inhabitants, to leading an indolent life, by which they are rendered useless both for themselves and the community at large—

I therefore have thought proper to establish and ordain, and by these presents do establish and ordain:

1. That all and every Hottentot in the different districts of this colony, in the same manner as all inhabitants, shall have a fixed place of abode in some one of the districts, and that an entry of the same shall be made in the office of the fiscal, or the respective landdrosts, and that they shall not be allowed to change their place of abode from one district to another, without a certificate from the fiscal or landdrost of the district from which they remove; which certificate they shall be bound to exhibit to the fiscal or landdrost of the district where they intend to settle, for the purpose of being entered in their office; while every Hottentot, neglecting this order, shall be considered as a vagabond, and be treated accordingly.

2. That every inhabitant who engages a Hottentot in his service for the space of a month, or any longer period, shall be bound with the same to make his appearance before the fiscal, or the landdrost, or the field-cornet of his district, and there enter into, and sign, *in triplo*, a proper written contract, containing;

a) The name of the person who takes into service.
b) The name of the person who enters into service.
c) The terms of the contract.
d) The amount of the wages.
e) The time of payment. And
f) Such further conditions as the persons contracting shall agree upon.

Of which contract, after having been duly signed *in triplo*, each of the parties shall be furnished with one counterpart, and the third counterpart is to remain in the office of the fiscal, landdrost, or field-cornet; while, for the sake of facilitating the execution of this measure as much as possible, the fiscal and respective landdrosts shall, upon applying for the same, be furnished on the part of government, *gratis*, with the necessary printed copies for their own offices, and those of the field-cornets under them.

This being neglected, no contract of hire against a Hottentot shall stand good; and in a case where it is proved that the Hottentot was ignorant of these present regulations, upon the existence of a hire contract being satisfactorily proved, the engagement shall stand good in favour of the Hottentot, who shall be entitled to all the advantages secured by this proclamation, to Hottentots entering into contracts before the fiscal, landdrost, or field-cornet.

3. In such cases, where a Hottentot entering any service, with the consent of the person whose service he engages in, includes his wife and children, or any of them, in the contract, the same shall be supplied by such person whose service the said Hottentot enters, with the necessaries of life, (lodging included,) in the same manner as the person who made the contract, provided they have not made a personal engagement for themselves; as in this case a separate agreement must be made with them, and duly signed.

4. That the agreement expiring on the last day of the time stipulated in the contract, the servant shall not be obliged to continue his services any longer, but be at liberty, with his wife and children, (if they are with him,) and with all his cattle and other property of whatever nature it may be, to leave the master, and enter another service, or act in any other manner the laws of this colony admit of, without being hindered by the master or any one on his part, on pain of forfeiting one hundred rds., to be divided in three shares, one-third for the treasury of the district, one-third for the magistrate who prosecutes, and the remaining third for the Hottentot thus molested.

5. The master shall be obliged to pay the wages agreed for, strictly on the periods mentioned in the agreement; and that in case of neglect, upon the Hottentot's lodging a complaint, the case shall be tried by a committee of the court of justice, in the presence of the fiscal, if in the district of the town, and by the board of the respective landdrosts and heemraden, if in one of the country districts, which board, upon a summary investigation, shall administer justice; and in case the complaint is well founded, the master not only shall be obliged to pay the servant his wages, but shall, over and above, forfeit all claim to the further fulfilment of the contract; as likewise all claim on account of such necessaries as he may have provided.

6. That before the said committee of the court of justice, and the board of landdrost and heemraden, in the same manner, shall be tried all cases in which a Hottentot lodges a complaint against his master for ill-treatment; when, if upon a summary investigation the fact be found true, the Hottentot shall be discharged from his service, and the master be fined in a fine not exceeding fifty rds. and not less than ten rds. according to the nature of the ill-treatment; and the Hottentot, if found to have urged his complaint wantonly or malignantly, shall receive such correction as the nature of the case shall require.

(This article is not to extend to ill-treatment, accompanied by mutilation or injury done to any part or limb of the body, by which the complainant may be deprived of the use thereof for some time, or for ever; but in these cases, the fiscal or the landdrost shall prosecute according to the common law in use in this colony.)

7. That in case the Hottentot, at his own request, shall have been supplied by the master during the term of contract, with clothing or other necessaries, in deduction of the amount of his wages, the nature and value of such supplies shall, at the time of supply, be stated to the ward-master or field-cornet, who, upon the Hottentot's affirming the same, shall make a memorandum thereof, in order to be had recourse to in case of any dispute about the payment of the wages; but in case of the supplies not being stated at the time and registered in this way, no allowance for the same shall be made. This same rule is to be observed, when any claim arises between a master and Hottentot on any other account, during the term of the contract, by which the Hottentot becomes the debtor of the master.

8. That no wine, brandy, or other spirituous liquors, shall be considered as necessaries of life, and consequently no allowance shall be made for the supply thereof to a Hottentot by his master during the period of his employment.

9. That in case it is found, at the expiration of the term of contract, that the Hottentot has been supplied with more than

what the amount of the wages he agreed for comes to, the master shall not have any claim, on that account, on the Hottentot's or his family's further services, but shall notwithstanding be obliged to let him or them depart, without any ways detaining him or them, and to prosecute the Hottentot before a committee of the court of justice, in the presence of the fiscal, or the board of the respective landdrosts and heemraden, who, upon finding the claim to be founded, shall condemn the Hottentot to the payment thereof, leaving to the plaintiff to carry his condemnation into effect, *ordinario modo*.

10. That the master shall in no case be allowed to detain, or prevent from departing, the wife or children of any Hottentot that has been in his service, after the expiration of the term of contract of their husband or father, under pretence of a security for what he may be indebted to him; not even if he had any claim on the wife or children themselves; for money or any other advances; but he shall be obliged to have recourse to the mode of proceeding prescribed in the last preceding article, and not be allowed by his own authority to attempt the repayment of himself, by the personal services of these natives.

11. That likewise in case of the Hottentot's dying, through which the effect of his personal contract of hire ceases, the wife and children shall be at liberty to depart, (if not personally engaged,) and to take with them all their property, of whatever nature it be; and all disputes arising on this head shall come under the summary cognizance and decision of the said committees of the court of justice or the heemraden.

12. That the whole of the property which a Hottentot may leave behind on his decease, shall be given up by the master of those, who, according to the laws and customs of this colony, shall be entitled to the same.

13. That the Hottentots engaged in the manner prescribed in the 2d article, shall be bound diligently and honestly to serve their masters during the period of their contract, and to behave with proper submission; on penalty, that in case any founded complaints about their non-complying with their contract be lodged against them, to the fiscal or respective landdrosts, they shall, by order of the same, be subjected to domestic correction; or if their misconduct deserves a severer punishment, they shall, upon a summary investigation of the case, by a committee of the court of justice or heemraden, be punished with confiscation of the wages due to them, or part of the same, or a temporary confinement, or a more severe domestic corporal punishment, according to the exigency of the case, independent of their being bound to serve out their full time according to agreement.

14. That this however shall not extend to cases where any public criminal offence has been committed by the Hottentots,

who are in such cases to be prosecuted by the fiscal or landdrost of the district, in the usual manner.

15. That no Hottentot shall be taken into service without being provided with a certificate, either of his master, or the fiscal, landdrost, or field-cornet, under whose district he did serve, containing a declaration, that he has duly served out his time, or in case he has *not* served out his time, that he left the service of his former master with proper consent, or upon due authority; while the Hottentots that have been in the military service, must be provided with a legal discharge, before any one whosoever shall be allowed to take them into his service; and any one taking into his service a Hottentot not provided with such certificate or discharge, shall forfeit one hundred rds., one-third for the informer, one-third for the public treasury, and one-third for the magistrate, who carries on the prosecution.

16. Lastly, the Hottentots going about the country, either on the service of their masters, or on other lawful business, must be provided with a pass, either of their commanding officer, if in the military service, or the master under whom they serve, or the magistrate of the district, on penalty of being considered and treated as vagabonds; and moreover, the tenor of the proclamation of the 17th of October, 1797, respecting soldiers, sailors, servants, &c. as well as military deserters, is to be strictly attended to, in regard to Hottentots going about the country; so that every one is to ask a pass from any Hottentot that happens to come to his place, and in case of his not being provided with it, to deliver him up to the field-cornet, landdrost, or fiscal, in order to act as after due inquiry, they shall feel incumbent to do.

And in order to give the fullest publicity to this my intention and command, besides the usual means of making the same known, I do hereby direct each and every wardmaster of this town, to appoint and assemble one Hottentot from every house in the respective wards, and each field-cornet in the several country divisions, one Hottentot from each house in such division, as early as possible after their receipt of this proclamation, and to explain or cause to be explained to such Hottentots so assembled, the full meaning thereof; and I do further direct the wardmasters and field-cornets aforesaid, to report to his Majesty's fiscal, and to their respective landdrosts, their having complied with this instruction, as they shall answer the contrary at their peril.

Given under my hand and seal, at the Cape of Good Hope, this 1st day of November, 1809.

(Signed) CALEDON.

By his Excellency's command,

(Signed) H. ALEXANDER, Secr.

APPENDIX B.

Crown Trial, or Mode of Proceeding in Criminal Cases, at the Cape of Good Hope.

The Chief Justice and Members of the Court, at the Cape of Good Hope, and its Dependencies, make known:

THAT whereas the introduction of the commission of circuit, established by proclamation of the 16th of May, 1811, and several benevolent regulations made since that period, from time to time, by his Majesty's government, in regard to the mode of prosecuting crimes and misdemeanours in this colony, has led to irregularities in the method of proceeding, and in some respects even, to uncertainty, respecting the competency and duties of the several courts and prosecutors:

We, for promoting the ends of justice, and producing uniformity and distinctness in the premises, have, with the approbation of his Excellency Lord CHARLES HENRY SOMERSET, governor and commander in chief of this colony, established the following *Mode of Proceeding in Criminal Cases*, containing the spirit of the existing laws, proclamations, and ordinances, under such modifications as may tend to combine the benevolent principles of the present government with the mode of proceeding in the prosecution for crimes and misdemeanours, heretofore in use in this colony, in as far as the nature of the case will admit.

And we do hereby order and direct all and every person and persons concerned, to conform to this mode of proceeding, and to observe, and cause to be observed, the regulations therein prescribed.

Crown Trial, or Mode of Proceeding in Criminal Cases, at the Cape of Good Hope.

SECTION FIRST.

Of competent Courts and public Prosecutors.

Of competent courts of first instance.

ART. 1.—All crimes and misdemeanours committed in this colony are, in the first instance, subject to the jurisdiction, either of the board of landdrost and heemraden of the district, in which the crime or misdemeanour has been committed, or to that of the court of justice, or the commissioners therefrom, attending in Cape Town, or at the several drostdies, on the annual commission of circuit.

Crimes committed in the country districts, not subject to a more severe punishment than public scourging, temporary transportation, &c. to be prosecuted before the landdrost and heemraden.

ART. 2.—All crimes and misdemeanours committed in any of the districts, which are not subject to a more severe punishment, than that of public scourging, transportation, banishment, or confinement for a limited period, shall be brought before the boards of the landdrost and heemraden of the district in which the crime has been committed; which boards, for passing a definitive sentence, shall consist of not less than three members, of whom the landdrost shall be one.

Those subject to a higher degree of punishment, to be prosecuted before the commission of circuit.

Exception.

ART. 3.—All criminal cases, the cognizance of which is not especially entrusted to the board of the landdrost and heemraden, shall be tried before the commission of circuit, with this exception only, that if, after a full investigation, it is evident that the crime committed is subject to capital punishment, the public prosecutor shall bring such case before the *full court* of justice, and there prosecute the same to final judgment.

Crimes committed in Cape Town, not subject to a more severe punishment than public scourging, temporary transportation, &c. to be prosecuted before the two commissioners of the court, attending for the dispatch of daily business.

ART. 4.—All crimes and misdemeanours committed in Cape Town and its jurisdiction, not subject to a more severe punishment than that of public scourging, transportation, confinement, or banishment for a limited period, shall, if the nature of the case requires a public punishment, (transportation, confinement at Robben Island, or elsewhere, and banishment included,) be subject to the cognizance of the two commissioners from the court of justice, attending daily for the dispatch of business.

Those subject to a more severe punishment to be investigated be-

ART. 5.—All crimes, in whatever part of the colony committed, which are subject to a more severe punishment than scourging and transportation, banishment, or

confinement for a limited period, but not subject to a capital punishment, and the cognizance whereof in the country districts cannot be deferred until the circuit commences, are to be brought for investigation, by the respective public prosecutors, before one of the commissioners daily in attendance, as heretofore; and the investigation being closed, shall be prosecuted before the full court of justice, which shall consist of at least five members, including the chief justice, or the president, for the time being.

fore one of the said commissioners, and prosecuted before the full court.

ART. 6.—Crimes which, according to the existing laws, are subject to a capital punishment, shall henceforth be prosecuted before the full court, which shall consist of at least seven members, including the chief justice or president.

Capital crimes *ab ovo*, to be investigated and prosecuted before the full court.

In case the chief justice or president should, either from indisposition, or other legal impediment, be prevented from attending a trial, which admits of no delay, the senior presiding member for the time being shall supply his place; but the court shall give due information thereof to the then governor.

ART. 7.—The regulations hereinbefore made are not, however, to be understood as intended to be in derogation of the authority granted to the heemraden, by *the 152d and 153d Articles of the Ordinance of the 24th October, for the Government of the Country Districts*, ordaining, 'That, for the promoting of a prompt administration of justice, the heemraden are authorized, at the requisition of his Majesty's fiscal, or the landdrost, in case the accused person cannot be immediately forwarded to town, or the annual commission of circuit should not be present at the drostdy of the district in which the crime has been committed, to attend at the taking of preparatory examinations, in all criminal cases, belonging to the cognizance of the full court, as well as of that of the respective commissioners from the same; and of summarily interrogating the accused;' subject, however, to the modifications and restrictions prescribed by the 152d and 153d Articles afore-mentioned. Nor shall these regulations be interpreted as affecting the right, which, according to the laws and usages of this colony, belongs to his Majesty's fiscal, of acting by prevention in all criminal cases, without exception.

The provisions made in *the 152d and 153d Articles of the Ordinance for the Government of the Country Districts*, remain in force.

ART. 8.—The prosecution of crimes and misdemeanours, subject to the respective boards of the landdrost

The prosecution of crimes mentioned in Ar-

ticle 2d, to be carried on by the secretary of the district; and of those mentioned in Article 3d, 5th and 6th, by the landdrost, or his agent.

and hegmraden in the country districts, shall be carried on by the secretary of the district in which such crime or misdemeanour has been committed; but in all other cases, the prosecution for crimes perpetrated in the country districts shall, in the first instance, be carried on by the landdrost himself, if the prosecution takes place before the commission of circuit; or by the official agent of the landdrost, if it takes place before the court of justice, or the commissioner or commissioners therefrom.

All crimes committed within the jurisdiction of Cape Town, to be prosecuted before one or both the commissioners, by the fiscal, or one of his deputies.

ART. 9.—All crimes and misdemeanours committed within the jurisdiction of the town, the cognizance whereof belongs to the commissioners from the court of justice, agreeably to the 4th Article, and in like manner, all crimes, the final decision whereof belongs to the full court, agreeably to the 5th Article, but of which the investigation is entrusted to a commissioner from the same, shall be prosecuted by his Majesty's fiscal, or one of his deputies.

But the fiscal is to act in person, in all cases before the full court, unless legally prevented.

ART. 10.—All prosecutions of crimes committed in Cape Town, and which are to be brought before the full court, agreeably to the 5th and 6th Articles, shall be carried on by his Majesty's fiscal, in person, unless prevented by absence, indisposition, or other legal impediment; in which case he will be allowed to carry on the same, by one of his deputies.

All prosecutions for crimes committed in the country districts, carried on before the full court, shall be prosecuted by the official agent of the landdrost, in whose district the crime has been committed.

All doubts as to the competency of inferior courts, are to be submitted to the decision of the court of justice.

ART. 11.—Should any doubt arise respecting the nature of a crime, and the competency of any inferior court to take cognizance of the same, such court, or the public prosecutor concerned, shall submit the grounds of such to the court of justice for its decision.

The principle on which the decision is to be founded.

ART. 12.—The decision shall be founded on the principle, that in crimes, the nature of which admits of gradation in punishment, proportionate to the aggravating or extenuating circumstances of the case, the competency of the court is to be decided, by an inquiry into what the highest degree of punishment would be, to which the law has eventually subjected the crime in question; and thus, where that highest degree exceeds that punishment which the minor courts are hereinbefore authorized to inflict, the case shall not be cognizable by it.

ART. 13.—The directions contained in Article 11th, shall also be observed, when crimes, subject to the cognizance of the commission of circuit, are committed in the country districts, prior to the landdrost being officially informed of the period of their session at his drostdy; in which case the landdrost is to apply to the full court,—state the crime committed,—and to exhibit all the evidence collected by him, in order to obtain not only the necessary decree for bringing the perpetrator to trial, but likewise the directions of this court, whether the case can be allowed to lie over till the session of the commission takes place, or is to be tried before the full court.

Crimes subject to the cognizance of the commission of circuit, to be reported to the court of justice, who will direct whether the case can lie over till the circuit, or shall be tried before the full court.

ART. 14.—The perpetration of a crime renders the perpetrator subject to the jurisdiction of the court of that place where the crime has been committed, in as far as the nature of the case entitles that court to take cognizance thereof; consequently, every one accused of having perpetrated such a crime in the country districts, is bound to acknowledge the competency of the board of the landdrost and heemraden of the district in which he is accused of having committed the crime; and on objecting thereto, or neglecting to make his appearance, or concealing himself, shall be subject to all the consequences established by law, towards criminals guilty of non-appearance, or of concealing themselves, for the purpose of evading their trial.

The perpetration of a crime renders the perpetrator subject to the jurisdiction of the place where the crime was committed.

ART. 15.—All officers of justice shall be obliged and bound, on a legal decree for apprehension being exhibited unto them, forthwith to cause the person or persons against whom such decree has been given, if they reside or are in the district to which such officers belong, to be taken into custody, and delivered to the competent officer, or his lawful representative.

The officers of justice are bound to apprehend and deliver to the proper prosecutor, all criminals against whom a decree for apprehension has been issued.

ART. 16.—The respective landdrosts shall, immediately on receiving information of a crime having been committed in their districts, report the same to his excellency the governor, the chief justice, or president of the court, and his Majesty's fiscal for the time being; and his Majesty's fiscal is to report to the governor and the chief justice, or president for the time being, all crimes committed in Cape Town and its dependencies.

The respective landdrosts are to report every crime committed in their districts, to the governor, the chief justice, and the fiscal. The fiscal is to report those committed in his jurisdiction, to the governor and chief justice.

ART. 17.—The respective boards invested with judicial power, are severally bound to superintend the administration of justice in criminal cases, and to take care

The respective courts are bound to take care that the proceedings in

Criminal cases are carried on and terminated with the utmost expedition.

that all crimes and misdemeanours be inquired into without delay, and the prosecution carried on and terminated with the utmost expedition.

All public prosecutors in the country districts are subject to the superintendance of the fiscal.

ART. 18.—All those who, by virtue of their office, are charged with the prosecution of crimes and misdemeanours in the country districts, are subject to the special superintendance of the fiscal, and, if necessary, to his directions.

How the courts are to act, in case of informality on the part of the prosecutor.

ART. 19.—In case any informality or informalities in this mode of proceeding shall take place on the part of the prosecutor, the court to whose cognizance the case belongs shall, both *ex officio*, or on a complaint being lodged by the opposite party, require the public prosecutor to report on the case, and then order such redress as such informality or informalities shall be deemed to require.

The fiscal's duty in such cases.

ART. 20.—His Majesty's fiscal is likewise hereby directed, in case of his discovering an informality or informalities in any criminal proceedings, by which he conceives the dictates and objects of this mode of proceeding are not duly followed, to make an official inquiry thereon, and then to submit such representations to the court of justice, the court of appeals, or (in the event of the case being so far advanced, that the sentence be lying before his excellency the governor for his *fiat*,) to his excellency the governor for the time being, as he shall deem expedient, for obtaining redress of such informality or informalities.

The government resident at Simon's Town, when acting as public prosecutor, is subject to the directions hereby given to landdrosts.

ART. 21.—The directions hereby given to the respective landdrosts of the country districts, as public prosecutors, shall be observed by the government resident of Simon's Town, when acting as public prosecutor before the court of justice, or commissioners from the same, in like manner as if his name was inserted in each article.

SECOND SECTION.

Mode of Proceeding in the Investigation of Crimes subject to public Punishment.

The perpetrator of a crime, detected in *flagranti delicto*, to be forthwith apprehended, without a decree.

ART. 22.—The respective officers are authorized and required, in case of any crime or misdemeanour being committed within their jurisdiction, which renders the securing of the perpetrator necessary, to have such perpetrator taken up *in flagranti delicto*, without applying or waiting for any judicial decree for that purpose.

ART. 23.—This apprehension in *flagranti delicto* shall, within twenty-four hours, be brought to the cognizance of the competent court, by the public prosecutor, who shall state the circumstances of the case, and specify the names of those who can give evidence thereon, in order that such court may either approve of the apprehension, or give such other directions as, upon due examination of the case, shall be found expedient.

But such apprehension, and the facts of the case, must be reported to the competent court, within 24 hours.

ART. 24.—The perpetrator not being detected in *flagranti delicto* shall not be apprehended but by a decree of the competent court; which court shall grant or issue such decree, either *ex officio* or on the representation of the public prosecutor; provided it is certain, or there are strong grounds for believing that the crime has been committed by the accused person, and will subject him to corporal punishment.

In other cases, no one can be apprehended without a decree.

ART. 25.—No person shall be summoned to *personal* appearance before the court, to whose jurisdiction he is subject, for the purpose of answering to any crime laid to his charge, unless such summons be authorized by an especial decree of such a court, to be granted in case of its being doubtful, whether the alleged crime involves corporal punishment, or in case of the crime being subject to corporal punishment, the information against the accused does not contain so high a degree of probability as to render him liable to be apprehended.

Nor shall any summons for *personal* appearance be issued without a decree.

ART. 26.—But in case there be *periculum in mora*, or if by the delay attending the previous application for such a decree, the administration of justice should be impeded, the officer of justice shall be warranted to arrest the suspected delinquent, and to place him in civil custody, provided the information prescribed in the 23d Article, in regard to apprehension in *flagranti delicto*, be punctually given to the competent court within twenty-four hours.

An arrest may be made where there is *periculum in mora*, without decree, but must be reported in 24 hours.

ART. 27.—His Majesty's fiscal, his deputies, the landdrosts, their deputies, and the resident of Simon's Town, shall not require a previous decree for taking into custody any person or persons beneath the rank of burghers or Christian inhabitants; such persons being liable to corporal apprehension and confinement, by order of the respective officers, whenever suspected or accused of having perpetrated a crime.

Description of persons who may be apprehended without a decree.

ART. 28.—Of such apprehension, however, the public prosecutor shall likewise be bound, within twenty-four

Report to be made thereon.

hours, to inform the court, under whose jurisdiction the same has been made, stating the nature of the delict and the circumstances which led to the conviction, that the person or persons apprehended, is or are actually the perpetrator or perpetrators of the crime he or they stand accused of; and, at the same time, to pray the court to confirm the arrest.

Local inspection to be held forthwith.

ART. 29.—Immediately after the perpetration of a crime shall be brought to the knowledge of the court, or the public prosecutor, the necessary local inspection shall take place in presence of the prosecutor, or his representative, by a committee of the court, assisted, in cases of wounding or killing, by a regular admitted medical man, and attended by the secretary, who shall form and subscribe an act, containing not only the particulars of the alleged crime, but likewise all local and other circumstances relative thereto, that attracted the attention of the committee, at the time the inspection took place.

And preparatory examinations to be taken.

ART. 30.—In all prosecutions for alleged crimes, requiring the securing of any person, or a summons for *personal* appearance, the competent public prosecutor shall, in the presence of a committee from the court of the place where the crime has been committed, take such preparatory informations as are requisite to enable the court to give the necessary decree for apprehension, or for a summons for *personal* appearance.

Witnesses to be sworn before giving their evidence.

ART. 31.—All witnesses to be examined in the course of this preliminary investigation shall, previous to their giving their evidence, make oath before the court, by whom they are to be examined, that in the whole of their deposition they will state truth, whole truth, and nothing but truth. And in giving any judicial decree, or passing any definitive sentence, no regard whatever shall be paid to evidence not sworn to.

The time for the commencement of the trial is to be fixed by the president of the court, in concurrence with the public prosecutor.

ART. 32.—The inspection being effected,—the preliminary informations being taken,—and the decree for apprehension, or for a summons for *personal* appearance, having been granted, the president of the court, before whom the accused person is to be tried, shall, in concurrence with the public prosecutor, fix the day on which the trial is to commence.

But this is in no case to be later than the eighth day after the decree has been granted.

ART. 33.—No trial shall be deferred longer than eight days subsequent to that on which the decree has been granted, unless any legal impediment should exist, of which due proof must always be recorded.

ART. 34.—The public prosecutor shall be bound, in every criminal case, to draw up an act of indictment, from the preliminary information collected by him, which shall contain the name of the accused, and the nature of the crime alleged against him, described by the names and terms provided by law for each sort of crime, and including a statement of all such circumstances which preceded, attended, or followed the perpetration of the crime, as might any way tend either for or against the accused; always bearing in mind, that a religious adherence to truth, in stating the facts, and a strict accuracy in the legal description of the crime, are the chief requisites of an act of indictment.

The public prosecutor is to draw an act of indictment from the preparatory examination.

ART. 35.—The accused, whether in custody or summoned to *personal* appearance, shall be furnished with a true copy of this act of indictment, by the prosecutor, three days prior to the trial.

And to transmit a copy thereof, to the prisoner or accused.

ART. 36.—The public prosecutor is likewise to take care, that the act of indictment, drawn up by him, together with the preliminary information relative thereto, be transmitted to the president of the court, before whom the accused person is to be tried, at least three days prior to the day of trial.

And a like copy to the president of the court, together with the preparatory examinations.

ART. 37.—And in order, in the administration of justice in criminal proceedings, to give equal facility to all and every accused person, the tenor of the said act of indictment shall be communicated to all persons in custody accused of having committed any crime, without exception; and, consequently, to all Hottentots, free blacks and slaves, to whom, in case of their not being able to read, the same shall be read and explained—in Cape Town, by one of the sworn clerks belonging to the court of justice, or if need be, by an interpreter; and in the country, by the clerk of the district, or the person acting as secretary to the board of the landdrost and heemraden, when the secretary to the district is acting as public prosecutor, or if need be by an interpreter: due proof whereof shall appear on the records of the proceedings, as otherwise the same shall be null and void.

The act of indictment shall, if required, be explained to the prisoner or accused.

ART. 38.—The contents of the act of indictment having been communicated to the accused, he shall be required to furnish the public prosecutor with a specific list, under his signature, containing the names of those he wishes to produce as evidences in his favour, in the investigation of the crime he stands accused of; and this

The contents of the indictment having been communicated to the accused, he is to furnish the public prosecutor with a list of the witnesses to be called on his behalf.

list is to be transmitted to the court, on the day of trial, in order to be filed with the other documents of the suit.

How the trial is to be commenced.

ART. 39.—On the day of trial, after the court has been opened, with the usual ceremonies, and the accused, whether a prisoner, or person summoned to personal appearance, the prosecutor is to exhibit the act of indictment, subscribed by him, together with all the preparatory informations, collected by him, and a specific list of all the witnesses, in favour of, and against, the accused, to the best of his knowledge; together with the interrogatories, on which he considers the prisoner, or defendant, should be examined.

The act of indictment to be read by the secretary.

ART. 40.—The president of the court is to cause the act of indictment to be read, by the secretary, to the accused person, in a loud voice; and to inform him, that, in consequence of the act of indictment, the secretary will put to him the queries, exhibited to the court, by the public prosecutor, in his public capacity, and such others, as the court shall think requisite.

The queries, exhibited by the public prosecutor, are not, however, to be put to the accused person, till approved of by the court.

No delay to be permitted, but for lawful cause.

ART. 41.—After the names of the witnesses shall have been given in, neither the public prosecutor, or the accused, shall be allowed to delay the investigation; either by giving in the names of further witnesses, or otherwise, unless permitted by the court, for reasons of importance, which are to be duly recorded.

Mode of proceeding, when an exception is proposed by the accused.

ART. 42.—In case, however, the accused person has to propose any exception, which would tend to impede the progress of the trial, such as the exceptions of *incompetence, litis pendentis, or litis finitæ*, he shall be entitled so to do, immediately after the act of indictment has been read to him, and before the investigation commences; to which exception the public prosecutor is to make an immediate reply; whereupon, the proceeding son this exception shall be considered as closed, and sentence thereon pronounced, forthwith, according to the merits of the case. Cases, however, the investigation whereof has been directed, by this ordinance, to be made by one commissioner from the court of justice, and the final judgment whereof has been reserved for the full court, shall be brought before the full court, as soon as possible, after the public prosecutor has made his reply to the exception, and there be decided, according to the circumstances of the case.

ART. 43.—The exception being rejected by the court, the investigation of the case shall be continued, as if the accused person had not proposed it. In case of the exception being rejected, the prosecution is to go on.

The accused, however, if he considers himself aggrieved by the sentence on the exception, is entitled to an appeal from the commissioners to the full court, (*requisitie,*) or from the full court to the court of appeals, as the nature of the case shall require. In case of an appeal, however, the court below, after having declared the examinations closed, shall not be allowed to proceed farther, until a final decision be given on the exception; by which it shall appear, that the further cognizance of the case belongs to such court, and is to go on, without interruption. How to proceed in case of an appeal.

ART. 44.—If the accused does not propose any exception, the interrogation shall take place immediately; and the accused shall be questioned on every circumstance relating to the accusation, and resulting from the preparatory examinations; but shall not be interrogated a second time, unless he should himself make an application to that effect, or unless new matter should arise in the course of the investigation, of which no knowledge existed, at the time of the first interrogation, and even then not until an express decree of the court be given to that effect, after due inquiry shall have been previously made. If no exception is proposed, the accused is to be interrogated.

ART. 45.—The accused person having answered the queries put to him, the same shall be read to him clearly and distinctly, word for word, and he shall be at liberty to abide by the answers thereto given, or to propose such alterations therein, as he may deem necessary for his defence. No erasure, addition, or alteration, however, shall be made of, to, or in these answers; but the retraction, addition, or alteration proposed, shall be accurately recorded at the foot of the former answers. The interrogatories and answers to be read to him, and such alterations made, as he may think fit.

ART. 46.—In case the accused should obstinately refuse to answer the whole or part of the queries put to him, such refusal shall be considered as a contempt of court, and subject the accused to imprisonment during the whole course of the trial, although the decree, given in the first instance, should be limited merely to a summons for *personal* appearance, or that reasons should arise for a provisional liberation. Independent of this penal consequence, such obstinate refusal shall not impede the continuance of the investigation of the case; but, on the contrary, be considered as a denial, and the court shall Mode of proceeding, in case the accused refuses to answer.

proceed against the accused, as if an actual denial had taken place.

In case of confession, the documents to be brought in *forma probanti* immediately, and the prosecutor directed to make his claim.

ART. 47.—In case the accused confesses the crime, in the course of this examination, that is to say, if he acknowledges both the fact and the culpability of the crime, and this confession is supported by the evident existence of the crime, or the *corpus delicti*, and the evidence contained in the preparatory examinations; the court shall immediately cause the preparatory examinations to be read, and the witnesses (if there be any in the case) to be re-examined; which being done, the court shall close the investigation, and direct the public prosecutor forthwith to make his claim and conclusion.

The accused is then to make his defence, and the court to pass sentence.

ART. 48.—The accused shall be at liberty to make his defence against this claim and conclusion, either verbally or in writing; and after having made this defence, or after having declared, that he has nothing further to say in his defence, the court shall proceed to deliberate on the case, and pass such judgment as the law shall require, according to the circumstances of the case.

The crime being denied *in toto*, or in part, the witnesses are to be examined.

ART. 49.—If the accused denies having perpetrated the crime, or part thereof, or if he acknowledges the perpetration of the fact, but denies its criminality, the re-examination of the witnesses, whose evidence is contained in the preparatory examinations, and the examination of those, whose evidence has been called in by the public prosecutor and the accused, shall be proceeded to, immediately after the accused has been interrogated.

Those named for the prosecution.

ART. 50.—The witnesses against the accused (including those who gave their depositions at the taking of the preparatory examinations) shall appear before the court separately, and, after having been sworn by the president or presiding member, to depose the truth, the whole truth, and nothing but the truth, shall be examined by the court, on every circumstance relative to the case in question, in the presence of the accused; whereupon the public prosecutor shall be at liberty to suggest such questions to the court as he shall consider necessary. After which the accused shall have the right to put such cross questions to the witness as he shall deem necessary for his defence.

Those called for the accused.

ART. 51.—After all the witnesses against the accused shall have been examined, all those in his favour shall

be brought before the court separately; and after having been sworn, as before mentioned, shall be examined by the court, on all circumstances relative to the case in question; whereupon the accused shall be at liberty to suggest such questions to the court as he shall deem requisite for his defence; after which, the public prosecutor shall be at liberty to cross-examine these witnesses.

The power of the court to interrogate the witnesses.

ART. 52.—At any time, previous to the close of the trial, the court is entitled to put such questions to the witnesses as may tend to discover or disclose the truth, provided the parties be present.

The examination being closed, the accused, if not found guilty, is to be acquitted immediately.

ART. 53.—After the witnesses on both sides have been examined, in the manner before mentioned, and no further investigation is required, the court shall declare the examinations closed; and in case it is found, by this investigation, that the accused is innocent, or that the suspicion, which arose from the preparatory information, is entirely removed, the declaration of "the investigation being closed," shall be made, accompanied by a decree of liberation from imprisonment, or of acquittal from personal appearance, and from all further prosecution for the crime, set forth in the act of indictment.

Manner of proceeding, when the preparatory examination has been made before a commissioner, and the further investigation is to take place, before the full court.

ART. 54.—In cases where the inquiry is to be made by one member of the court, according to the 5th article, and the investigation to take place, before the full court of justice, the prescriptions contained in the 39th, 40th, 41st, 42d, 43d, 44th, 45th, 46th, 47th, 49th, 50th, 51st, 52d, and 53d articles, in regard to the mode of proceeding, are to be observed by or before such commissioner of the court, until the investigation shall have been closed; and then the case shall immediately go to the full court, and all decrees, for liberation from imprisonment—acquittal from further prosecution—and all other decrees, found necessary, after the closing of the investigation, shall be reserved for the full court; and all proceedings, subsequent to the closing of such investigation, shall take place before the full court of justice, which shall be at liberty to have the examination resumed, if it is deemed necessary.

Where the evidence is not sufficient, a provisional liberation may be decreed,

ART. 55.—If the accused has not confessed the crime, and the investigation has not produced sufficient proof for condemning him, and if it be not probable, that further proof can be obtained, within a short time, the court shall immediately give a decree for provisional

liberation, on the accused person giving security for his personal appearance, whenever required, for such other provisional decree, as the nature of the case may require.

Such decree not to be in force longer than twelve months; at the expiration whereof, a final decision must take place.

ART. 56.—These provisional decrees shall remain in force no longer than a twelvemonth, at the expiration of which period, the public prosecutor shall report to the court, on its first subsequent meeting, what endeavours he has used, during the said time, to make further discoveries; and in case no sufficient proof shall have then been produced against the accused, the court, by final sentence, shall acquit him of all further prosecution, for the crime stated in the act of indictment.

Where the evidence is sufficient, the public prosecutor is to make his claim.

ART. 57.—But in case the court conceives the evidence brought forward sufficient to convict the accused person of having committed the crime, the investigation shall be closed, and the public prosecutor ordered, forthwith, to make his claim, to such effect, as the nature of the case requires, and the laws of this colony direct.

Upon which, the accused is to make his defence, and the proceedings to be closed.

ART. 58.—This claim having been made in public, the accused shall be entitled, likewise in public, to state his defence to the court; which being done, the proceedings shall be considered as completed, and judgment passed without delay; unless the public prosecutor should, for particular reasons, apply for permission to make a rejoinder, and the court should accede thereto; in which case, the accused person shall be entitled to make a sur-rejoinder; but after this, no further delay shall be allowed.

Evidence, tending to exculpate the accused, to be admitted at any period of the proceedings.

ART. 59.—The court, however, shall be bound, at any time, from the commencement of the proceedings, up to the execution of the sentence, to receive any evidence, that may be found tending to exculpate the accused; provided it appears, that the application, for the reception of such evidence, be not made with a view to impede or protract the course of justice.

The defence having been made, judgment to be passed forthwith.

ART. 60.—The investigation of the case, in which the accused shall have wholly or partly denied the crime laid to his charge, having been closed, and the public prosecutor having made his claim, and the accused his defence, the court shall immediately deliberate on the case, and pass such judgment as the law shall require, according to the circumstance of the case.

The sentence to be read in court, and to

ART. 61.—Such sentence shall be subscribed by the court, and then read to the public prosecutor and the

accused; and, on the day of execution, the sentence shall be promulgated in the presence of the accused, together with a detail of the crime, and all circumstances relative thereto.

be promulgated on the day of execution.

ART. 62.—No criminal sentence for punishment in public, (transportation, banishment, confinement at Robben Island or elsewhere, included,) shall be put in execution, without being approved of by the governor for the time being, and sanctioned with his *fiat*, or mitigated, as he may deem proper; for which purpose, all criminal sentences, on inappealable cases, shall be transmitted to the governor, for the time being, forthwith; or, if the case be appealable, as soon as the time for appealing has elapsed, in case no appeal be lodged. And such sentences, if passed in the country districts, shall be accompanied by a true copy of the proceedings, on which they have been founded.

No execution to take place without the governor's *fiat*.

ART. 63.—The execution of all criminal sentences, passed by the commission of circuit, and the boards of landdrost and heemraden, and of those passed before the full court of justice, on an *investigation before the commission* of circuit, shall take place at the usual place of execution of the district, in which the crime has been committed; but the execution of those, passed by the landdrost and heemraden of the *Cape district*, and by the court of justice, or commissioners therefrom, shall be executed at Cape Town. The court of justice, however, in cases of necessity, have the power, with the approbation of the governor for the time being, to direct the execution to be effected at any other place.

Sentences passed in cases tried before the commission of circuit, and the boards of landdrost and heemraden, where to be executed.

The court's competency in this respect.

ART. 64.—After the governor for the time being, has put his *fiat* to a criminal sentence, the court shall fix the time of execution, taking care, particularly when it involves capital punishment, that the execution be not protracted beyond the time required for the necessary preparations; and in case any impediment should intervene, the governor is to be acquainted therewith immediately. In cases of capital punishment, the court, or commissioners therefrom, shall communicate the time of the execution to the delinquent, in the presence of the public prosecutor, at least 24 hours before it is to take place.

The time for execution to be fixed.

In cases of capital punishment, the execution to be communicated to the delinquent, at least 24 hours before it is to take place.

ART. 65.—The accused shall not be allowed an advocate in court, during the course of the proceedings, hereinbefore prescribed, until he has answered all the questions to be put to him, after the act of indictment

The accused, after having answered the interrogatories, shall be allowed to employ an advocate.

has been read to him; but, having done so, he shall be allowed to employ an advocate to assist him in putting questions to the witnesses, both in favour of, and against him, agreeably to the 50th and 51st articles; and he shall further be allowed to entrust an advocate with his defence, on all points of law, that may incidentally turn up, and with all pleading in defence of the main cause, provided both one and the other be done in the presence of the accused.

The advocate to be one admitted by the court, and not to be released from the obligation of assisting the accused, but &c.

ART. 66.—None but an advocate regularly admitted can be chosen by the accused for his defence; and such advocate, having once undertaken the case, shall not be released from the obligation of assisting the accused, during the whole course of the proceedings, unless at the instance of the accused, or with the approbation of the court.

Access to criminal prisoners, in what manner to be allowed, before they have answered the interrogatories; and in what manner after that.

ART. 67.—As long as a criminal prisoner continues under examination, no access to him shall be allowed, without the consent of the court, which, on granting such consent, will be at liberty to impose such restrictions as may be deemed requisite. But after the prisoner shall have gone through his examination, his friends, relations, and counsellors, shall have free access to him, subject to the regulations of the magistrate, to whom the superintendance of the prison and the safe custody of the prisoner is entrusted.

A person under summons for personal appearance, having answered the interrogatories put to him, the court is to declare whether he is to be detained or left at large, and under what restrictions.

ART. 68.—When a person, summoned to personal appearance, has appeared and answered the interrogatories put to him, the court shall declare whether he is to be detained or left at large; in the latter case, the court will have the option, either to allow the accused to remain at large, on giving pecuniary security, or upon mainprize, or solemn promise to reappear, on the requisition of the court, or public prosecutor, at any time within the period of twelve months, as fixed in the 56th Article, on pain of being considered as guilty, and, as such, taken into custody by the public prosecutor, or those officers acting under his orders.

In case he be released under pecuniary security, the obligation of re-appearing continues, but only on pain, in case of non-appearance, of forfeiting the sum specified in the recognizance; for which reason, the court is to fix such sum according to the nature of the crime,—the circumstance of the individual,—and the punishment attendant on the crime.

ART. 69.—If the delinquent, against whom a decree of arrest has been given, has absconded or concealed himself, he shall be summoned by an edict, proclaimed after due warning, by the ringing of the court-bell, to appear before the court, on a certain fixed day, in order to answer to such crime or crimes as from the preparatory examinations may have been laid to his charge, and which summons by edict is to contain a statement of the nature of the crime, drawn up with all the strictness and nicety observed in the construction of an act of indictment. Mode of proceeding against delinquents absconding.

In case of a non-appearance, this summons by edict shall be twice repeated, and in case the delinquent does not appear on the third summons, the public prosecutor shall be admitted to bring all the evidence, as well in favour of as against the defendant, in *forma probanti*, and to make claim and conclusion against the defaulter.

On this admission, a fourth summons, *ex superabundanti*, specifying the day on which the public prosecutor is to give in his claim, shall be published in the manner above-mentioned.

ART. 70.—In the case of any person summoned to personal appearance in court, shall not make his appearance on the day prescribed, a decree for *prise de corps*, (seizure of his person,) shall be issued; and in case he has absconded or concealed himself, the same mode of proceeding shall be observed, as is prescribed in the former Article, in regard to absconding or concealed delinquents, under a decree of arrest. The same continued.

ART. 71.—If no sufficient proof be produced, to consider the defaulter guilty of the crime or crimes, on which a decree for arrest or for personal appearance in court has been given, and if the suspicions on which the decree has been grounded, are not removed or lessened; the public prosecutor, independent of his right to prosecute for the crime itself, shall prosecute the accused and defaulter for contumacy, and make such claim against him for banishment, or such inferior punishment as the nature of the case shall require. The same continued.

ART. 72.—Any defaulter under a decree of arrest or for personal appearance, making his appearance in court, or being taken up prior to the judgment for contumacy being passed against him, shall be proceeded against as if he had not been a defaulter; but if he makes his appearance in court, or is taken up subsequent thereto, he shall be allowed to make his defence both in regard Mode of proceeding on their returning or being taken up.

to his non-appearance in court, and in regard to the crime or crimes laid to his charge in the summons by edict; but all evidence, collected during his absence, and produced in court by the public prosecutor, shall be considered as good, valid and legal, as if the same had been collected in the presence of the accused, and the court is to look upon the same as such; unless its validity should be taken or done away, by sufficient counter proof.

The same continued.

ART. 73.—And the accused person having made this defence, and the public prosecutor having made his rejoinder, and produced further proof, in the manner prescribed by this ordinance; the court shall, notwithstanding the existence of the sentence in contumacy, proceed to pass such sentence on the circumstances submitted to its decision, and evidently proved, as it would have passed in case the accused and defaulter had been brought to trial in a regular manner, from the very commencement of the proceedings.

Witnesses guilty of contumacy, how to be compelled.

ART. 74.—In case any witness, duly summoned by the messenger of the court, should fail in making his personal appearance before the court, or in case of his being unwilling to give evidence, the prescriptions which are hereafter set forth from the 116th to the 119th Article, both inclusive, shall be followed in regard to him.

Witnesses entitled to a compensation, for all expenses necessarily incurred by them.

ART. 75.—All witnesses in criminal cases, who make their appearance in court and comply with the requisition thereof, shall be entitled to a compensation for all expense necessarily incurred by them on that account; and the account thereof being duly examined and moderated by the court, shall be discharged by the party, at whose requisition the witness has been brought forward, or, in case of inability, by the colonial or district treasury, as the case may be.

All proceedings to take place in open court.

ART. 76.—After a decree for personal apprehension, or for personal appearance in court, shall have been given, all proceedings shall take place in open court.

No attention to be paid to documents not publicly read in court.

ART. 77.—No investigation shall be closed, until it has become evident to the court that all documents relative to the case in question, the preparatory informations included, have been read to the accused person in open court, at such period of the investigation as may be deemed most likely to afford equal and impartial justice. And the court is to pay no attention to documents that have not been so read in court.

ART. 78.—All criminal proceedings are to be carried on without interruption. The public prosecutor is to take care that all witnesses in support of the charge, and for the defence of the accused, are summoned for the day fixed for the trial. The court having once been opened, or the trial having commenced, the court shall be bound to continue the same, or to cause it to be continued until sentence shall have been passed; and if the case cannot be brought to a final conclusion in one session, the court shall resume the session on the next day, (Sundays, holidays, and common court-days excepted,) and so continue every day, until the trial is brought to a final conclusion.

The proceedings to be carried on without interruption.

ART. 79.—In case the regular course of proceeding, prescribed in the preceding Article, should be impeded by the absence of the witnesses, or the intervention of extraordinary or unforeseen circumstances, the same shall be put upon record, for the discharge of the court, or the public prosecutor concerned.

Impediments to be recorded.

ART. 80.—In addition to all these regulations, the court is directed to examine into and to decide on all criminal cases, (the nature of which does not positively forbid the measure,) without sending the documents round to the individual members, and even, if practicable, immediately on closing the investigation.

If possible, to pass sentence immediately, without sending the documents round to the individual members.

ART. 81.—All courts and public prosecutors, independent of their obligation to inquire into and decide on all criminal cases, without interruption, and with due expedition, are likewise severally directed to take care that all criminal cases are brought to a final conclusion in Cape Town, before the commencement of the long vacation; and in the country districts, before the commission of circuit leaves the respective drostdies, so that at such a period, a goal delivery shall take place.

All criminal cases in Cape Town, to be brought to a final conclusion before the commencement of the great vacation.

In the country districts, before the departure of the commission of circuit.

ART. 82.—On any lawful reasons preventing the final termination of any case or cases, at the fixed period, the respective public prosecutors shall communicate those reasons, in Cape Town, to the court of justice, and in the country districts, to the commission of circuit; in order that they may be duly inserted in the records of the court, or that such steps may be taken, as the circumstance of the case may require.

Legal impediments intervening, are to be reported to the court.

ART. 83.—A strict record is to be made of the whole of the proceedings, specifying the day on which the trial has commenced, and that of those on which the same

A strict record to be kept of the whole of the proceedings.

has been continued,—the court before which it has taken place,—the officer by whom the prosecution is carried on,—and the name of the person accused;—and further, the whole of the proceedings, commencing with the act of indictment, and ending with the sentence passed on due investigation.

And of the order of time in which they happened.

ART. 84.—In addition to the exactness and perspicuity to be observed in this record, strict attention must be paid to the order of time at which the several proceedings have been carried on, so that every judicial act may appear in that order in which it took place.

To be closed at the end of each meeting, signed by the court, and deposited in the office of the secretary.

ART. 85.—The case not being terminated in one meeting, the record is to be closed at the end of each meeting, and signed by the court; and the original of this record, so signed, shall be deposited in the office of the secretary of that court, where also the whole of the records are to be deposited, after final sentence.

In what case the court shall grant legal assistance to the accused *pro deo*.

ART. 86.—In case the accused is in a state of insolvency, or if he be so circumstanced that his imprisonment puts a stop to his means of subsistence, the court, where practicable, shall appoint the necessary practitioners to assist him *pro deo*; but in this latter case, the accused shall be bound to defray and reimburse the expenses of witnesses, and other advances, required for the promotion of his defence; which expenses, together with those incurred for his subsistence, during the time of his confinement, shall not be carried against the government or the district treasury, until he has proved his insolvency, to the satisfaction of the court.

No stamps to be used by the accused, but in cases subject to a pecuniary fine.

ART. 87.—The accused person shall not be bound to use stamps, in cases subject to a more severe punishment than that of a pecuniary fine.

Against compounding.

ART. 88.—The public prosecutor shall not be allowed, in any case whatsoever, subject to a fine or confiscation, and much less in any instances where the crime or misdemeanour committed is of a more serious nature, to come to an arrangement, or to enter into any composition, or in any other way to screen the offender from the usual course of a regular prosecution.

Fines fixed by law, may be accepted.

ART. 89.—However, if any person accused of a misdemeanour, subject to a pecuniary fine, be inclined to prevent a criminal prosecution, by paying the fine stipulated by law, on the misdemeanour committed by him, the public prosecutor shall be at liberty to accept of the payment of such a fine: provided he makes a written

Provided due report is made to the court.

communication of the circumstance to the court, at its first subsequent meeting, in order to its being put upon record.

Cases submitted to the decision of the court *de plano*.

ART. 90.—If for the sake of avoiding a tedious law-suit, and the expense and trouble attendant thereon, any accused person should submit his case to the decision of the court *de plano*; such submission shall not, however, prevent an investigation taking place, or impede the free course of the administration of justice, provided the court shall find reason so to direct.

SECTION THIRD.

Mode of Proceeding in the Prosecution of Misdemeanours, not subject to public Punishment.

Description of offences comprised under this section.

ART. 91.—Under this section are comprised: 1st: 'All misdemeanours which are not subject to a more severe punishment than correction in the public prison, temporary imprisonment, fines and confiscation, in those cases where the law has positively prescribed the same, and all transgressions of penal laws relative to the public revenue and police;'—and

The same continued.

ART. 92.—2d. 'All complaints of masters of ships against their seamen,—of tradesmen against their apprentices,—of masters against their servants, whether freemen or slaves, and vice versa,—and further, all complaints of parents against their children; and in general all complaints, lodged with the magistrates, not capable of amicable arrangement, or in which the magistrate shall not be able to effect an amicable arrangement between the parties, and in which cases the public interest requires that the parties complained of should receive a correction proportionate to the misdemeanour.'

Are subject, in Cape Town, to the decision of one commissioner from the court of justice. And in the country districts, to that of the landdrost and two commissioned heemraden.

ART. 93.—All the before-mentioned misdemeanours and complaints are subject, in Cape Town, to the cognizance and decision of one of the two commissioners from the court of justice, attending for the dispatch of daily business, in rotation; and in the country districts, to that of the landdrost and two commissioned heemraden, to be appointed by the said board of landdrost and heemraden, on the commencement of each year, and approved of by the governor.

Misdemeanours committed in Simon's Town, are also submitted to the decision of one commissioner from the court of justice.

ART. 94.—The said commissioner from the court of justice is likewise to take cognizance of all misdemeanours committed in Simon's Town, and the vicinity thereof, and of all complaints, which the resident cannot

settle in an amicable manner, until further provisions shall have been made in this respect.

The power and duty of the fiscal and landdrosts, to call upon parties suspected of an intention to commit a breach of the peace, for security.

ART. 95.—His Majesty's fiscal and the respective landdrosts are authorized and directed to summon before them all persons whom there is a probable ground to suspect of future misbehaviour, tending to the breach of the peace, and to make them give their personal bond, with such further security as may be required by the magistrate, that they will keep the peace, or abstain from committing the transgression of which they are suspected, on pain of forfeiting to government, the sum stipulated in this bond, according to the nature and consequence of the case. The amount and nature of such security being, however, in case of dispute, subject to the decision of the court, who are competent to act in cases comprised under this section.

If the security be not given.

ART. 96. In case the persons suspected cannot convince the magistrate that the suspicions against them are ungrounded, or if they refuse, or are unable to give the security or bail, required by the magistrate, they shall be immediately taken into custody, and there remain, until proper security be given, or until the competent court shall have decided, that further detention is unnecessary.

How to proceed in case of non-appearance.

ART. 97.—In case any person, who shall have been summoned by the magistrate, to appear, under suspicion of having an intention to misbehave, or disturb the public peace, shall not appear to such summons, and there shall be *periculum in mora*, he shall be subject to immediate apprehension, under the prescriptions contained in the 26th, 27th, and 28th Articles of this ordinance; but in case there is no *periculum in mora*, the prescription contained in the 24th Article, in regard to persons accused of having committed a crime, is to be followed, with this modification, however, that in such a case, the decree shall contain an order to the magistrate, to cause the person suspected, to give security, that he will not in future misbehave, or disturb the public peace; and in case of refusal or inability, he shall place him in custody, until he shall give such security, or be released by decree of the court.

Oath to be taken by private complainant.

ART. 98.—If the suspicion of the magistrate is founded on complaints of private individuals, the person so complaining, and requiring security for his safety, shall be bound to make oath that he has no intention of injuring the accused, but that his life or person is really in dan-

gers; and to state all such circumstances as may tend to convince the magistrate, that such danger really exists.

This oath is to be taken, and the statement to be made, if in Cape Town, in presence of the sitting commissioner from the court of justice; and, if in the country, before the commissioners from the board of landdrost and heemraden.

The records kept by the public prosecutor, to be taken as legal evidence of the proceedings.

ART. 99.—The official records, kept by the public prosecutors, shall be considered as legal proof of his proceedings, under the four preceding Articles.

Arrangement which may be made between the monthly commissioners.

ART. 100.—The two monthly commissioners from the court of justice, shall be at liberty, in dividing their occupations, to arrange between themselves, which of them is to attend for the investigation of the misdemeanours and complaints, comprised under this section, during the month; but this arrangement once made, is not to be altered, unless by reason of indisposition, or other lawful cause, which shall be allowed by the chief justice or president for the time being.

Commissioner to attend the court-room daily, for the investigating and deciding on the matters comprised under this section.

ART. 101.—The commissioner in attendance, agreeably to this arrangement, is to attend at the court-room every day, (Sundays, holidays, and court-days excepted,) from ten o'clock in the morning, till two o'clock in the afternoon, for the purpose of investigating and deciding on all such misdemeanours and complaints, comprised under this section, as shall be brought before him, by his Majesty's fiscal, or the resident of Simon's Town,

Attendance of landdrost and heemraden in like cases.

ART. 102.—The landdrosts and the commissioners from the board of the landdrost and heemraden in the country districts, shall, in like manner, be in readiness every day, (Sundays, holidays, and court-days excepted,) to take cognizance of such misdemeanours and complaints, at the requisition of the public prosecutor, as soon as the distance of their habitations will admit of: and in the absence of the landdrosts, or his being otherwise occupied or lawfully impeded, the acting landdrost shall preside, and he being absent also, the senior member is to act as president; and if the landdrost, acting landdrost, and one or both of the heemraden shall be absent, the heemraad or heemraden, residing nearest to the drostdy, shall fill the place of him or them so absent, till his or their return.

By whom the prosecution of offences under

ART. 103.—The prosecution for all misdemeanours committed in Cape Town, shall be carried on by his

this section is to be carried on.

Majesty's fiscal, or his deputies; and the prosecution for all those perpetrated in Simon's Town, and the jurisdiction thereof, by the government resident of Simon's Town, or his official agent; and those, committed in the country districts, by the district secretaries, whose duties are, in the mean time, to be performed by the district clerk, or one of the clerks from the office of the landdrost or secretary of the district, to be appointed for such purposes, with the approbation of the governor for the time being.

Notice to be given to the accused.

ART. 104.—When the magistrate shall be acquainted, by direct complaint or otherwise, with the occurrence of any of the misdemeanours, specified in the 91st and 92d articles of this section, he is to inform the accused thereof, and to make out an accurate list of the names of all persons, who can give evidence, on either side, respecting the misdemeanour committed, or complaint lodged.

The prosecutor's duty to endeavour to reconcile parties.

ART. 105.—If the case be of such a nature as to admit of an amicable arrangement between accuser and accused, without prejudice to the rights of government, the public prosecutor, with whom the complaint has been lodged, shall use his best endeavours to effect such arrangement, prior to the case being brought to the cognizance of the court; and in case such endeavours shall prove unsuccessful, a record thereof is to be made in the proceedings.

The like of the court.

ART. 106.—In all such cases, the court also is bound to use their best endeavours to effect a reconciliation.

Proceedings in cases which require immediate investigation.

ART. 107.—All cases which, from their nature, admit of no delay, and which cannot be amicably arranged by the public prosecutor, shall immediately be brought before the competent court, and the parties and witnesses, on receiving a written requisition to appear, shall be bound to immediate appearance, in the same manner as if they had been summoned at the usual period, and in the usual manner.

The like in those which do not.

Requisitions to be sent by the prosecutor.

ART. 108.—In all cases not requiring such extraordinary expedition, the competent prosecutor shall, at least 24 hours before the meeting of the court, send a requisition, by the messenger of the court, to the person accused or complained of, calling upon him to appear before the competent court, to answer to the charge brought against him, the nature of which shall be specified in such requisition; and, in case of complaint, to the

complainant, calling upon him to appear, and bring forward his charges; and also to the witnesses, as well those which shall have been previously specified, and those who may be named to the messenger by the complainant, or person complained of, at the time of serving the requisition; calling upon them to give their evidence in the case, which is to be specified to them, at the time of serving the requisition.

Proceedings before the court.

ART. 109.—The public prosecutor is to commence the proceedings, by making a full statement of the facts, in presence of the person complained of, and specifying the law, which he is supposed to have transgressed; whereupon the accused shall be asked, whether he pleads guilty or not guilty. In case he pleads guilty, the public prosecutor shall immediately make his claim, to which the accused shall be at liberty to make his defence, and thereupon the court shall pronounce its decision. But in case the accused pleads not guilty, or refuses to answer, the public prosecutor shall give in the names of the witnesses he intends to produce in support of the charge.

If the case be founded on a complaint, the person who has lodged the same, shall, in the first place, relate all the circumstances relative thereto, and specify the names of all the witnesses who can give evidence therein, in addition to those already named by the public prosecutor. Whereupon the witnesses named by the public prosecutor, and the complainant, shall give their depositions separately, and be cross-examined by the accused, if he shall think fit so to do; after which, the accused shall make his defence, and specify the names of the witnesses in his favour, who shall likewise give their depositions separately, and be subject to cross-examination, by the public prosecutor and the complainant. On the production of witnesses, not called on by the requisition above-mentioned, the mode prescribed in the 41st article is to be observed.

Right of the court and prosecutor to interrogate.

ART. 110.—The court and the public prosecutor are at liberty to put such questions, both to the complainant and witnesses, as they may think fit. But they are not at liberty to put any other questions to the accused, than that of guilty, or not guilty; save such as may tend to illustrate his defence; but to these as well as to the preceding questions, he shall be allowed, saving the respect due to the court and public prosecutor, to decline answering.

Witnesses to be sworn before giving their evidence.

ART. 111.—After the witnesses have been informed in what case, and in regard to what persons, their evidence is required, and previous to their being admitted to give their depositions, they shall make oath in court, in the presence of the public prosecutor, or person complained of, that in their depositions, they will depose truth, the whole truth, and nothing but the truth.

Duty of the prosecutor and court, on the close of the proceedings.

ART. 112.—The investigation being completed, the public prosecutor is to make such declaration or claim against the person complained of, (or complainant, if there be one,) as he shall deem proper, and the person complained of, or the complainant, having made his defence to this declaration or claim, the Court shall pronounce its decision.

Complainant to be considered as a private prosecutor.

ART. 113.—In cases of complaint, the complainant shall be considered as a private prosecutor, subject to all the consequences of the prosecution.

On the first default of the complainant, the cause shall be struck off, and he shall pay the costs.

On the second, he loses his right of action, and shall pay the costs.

ART. 114.—In case the complainant shall not appear in court, on the day and hour appointed, the case shall be struck off the roll, and the complainant condemned in the costs, which must be discharged, before he can be again admitted to bring forward his complaint, and in case of a second default, he shall lose all right of action, and be condemned in all the costs. This, however, shall not affect the right of the public prosecutor, to bring an action on the part of the crown, if he should think proper.

On effect of the non-appearance of the accused.

ART. 115.—In case the person complained of does not appear in court, he shall be declared in default, and fined five rix-dollars, and a second requisition served, calling upon him to appear, within a period of not less than 24 hours, after the service of such requisition; and in case he shall not then appear, a second default shall be granted, and he shall be fined ten rix-dollars; and the court shall, notwithstanding his absence, proceed to the examination of the complainant, (if there be one,) and the witnesses. And in case the person complained of, shall not appear in court, to the third requisition, the public prosecutor shall proceed to make his declaration or claim, and the court shall pronounce judgment thereon.

The non-appearance of witnesses.

ART. 116.—On any witness not making his appearance in court, default shall be granted against him, and the public prosecutor authorized to issue a second requisition, calling upon him to appear and give evidence,

at his own expense, within a period of not less than twenty-four hours, after the service of such requisition, on pain of imprisonment; but saving his right to purge his first default.

If he does not appear to such second requisition, a decree for imprisonment shall be granted, which shall be enforced after the witness has been once summoned to comply therewith.

Witnesses refusing to give evidence subject to imprisonment and fine.

ART. 117.—In case any witness shall refuse to give his evidence, a decree for imprisonment shall be issued by the competent court, and enforced by the public prosecutor; and in case he shall continue to refuse, after thirty days imprisonment, he shall be fined one hundred rix-dollars, in favour of the reformed church of the district, or that of Cape Town; and in case of inability to pay such fine, he shall be imprisoned for the further space of thirty days, and remain subject to any civil claim for damages, which the party concerned may consider himself entitled to on account of his refusal.

The investigation to be proceeded in, notwithstanding their absence or refusal.

ART. 118.—In either of the above cases, the investigation shall be continued, in the absence of such witnesses; and if the evidence is sufficient, the court shall proceed to pronounce judgment.

In what cause the court may extend the time for giving evidence.

ART. 119.—If the investigation of any case cannot be continued, on account of a lawful absence of the parties or witnesses, the court shall have the right to grant such further term for completing the investigation as may seem reasonable.

An investigation having been commenced, is to be completed before the same commissioner or commissioners.

ART. 120.—The investigation of a case, having been commenced before a commissioner or commissioners from the court of justice in Cape Town, or before the landdrosts and commissioners of the board of landdrost and heemraden in the country districts, shall be brought to a conclusion before them, although the term, for which they were appointed, may have elapsed.

Reference to art. 78th and seq.

ART. 121.—The mode of proceeding in criminal cases, prescribed in the 78th, 79th, 80th, 81st, 82d, 83d, 84th, 85th, 86th, 87th, 88th, 89th, and 90th articles, in regard to the continuation of the proceedings,—the recording of criminal proceedings,—the use of stamps,—and on entering into composition,—shall also be observed in the proceedings under this section; with this modification, however, that in this instance, brevity be particularly attended to, and all superfluity in the recording carefully avoided.

Brevity in the records.

In case of seizure, the sentence to be forthwith transmitted to the sequestrator.

ART. 122.—In all cases of seizures, made in consequence of transgressions of the law, in regard to his Majesty's customs, the secretary of the court, before which the case has been tried, shall forthwith transmit to the sequestrator, or his representative, a copy of the sentence, in order that the goods, thereby confiscated, may be publicly sold, after having been twice advertized in the Gazette.

Sales to be held by the sequestrator at the custom-house, and goods to be there deposited.

ART. 123.—All sales of confiscated goods shall be held by the sequestrator, and if the seizure or confiscation has taken place in consequence of a breach of the British navigation laws, the laws of his Majesty's customs, or the privileges of the Hon. East India Company, the goods shall be placed under the charge and administration of the collector or comptroller of the customs, and the sale held at the custom-house, unless absolute necessity should require their being sold elsewhere.

The net proceeds to be deposited in the Lombard Bank.

ART. 124.—When the purchase money becomes payable, the proceeds of the sale, after deducting the expenses, shall be placed in the Lombard Bank, for the benefit of those, who, at the termination of the case, shall be legally entitled thereto.

No practitioner can appear in these proceedings without special permission from the court.

ART. 125.—No practitioners shall be permitted to act, in the proceedings prescribed in this section; but the accused is to defend his own cause in person, unless prevented by indisposition, old age, or other legal impediments; in which case, the court, on a special application from the accused, to that effect, accompanied by due proof of the existing impediment, shall be at liberty to allow him to employ an attorney. But in order to prevent the benevolent objects of this short mode of proceeding being eluded, such attorney shall be subject to the approval of the court.

SECTION FOURTH.

Of Re-audition and Appeal.

Cases which may be brought to re-hearing.

ART. 126.—All cases, in which a definitive sentence has been passed, by a commissioner or commissioners from the court of justice, may be brought to a re-hearing before the full court, in Cape Town; or, where a definitive sentence has been passed by the landdrost and commissioners from the board of landdrost and heemraden, may be brought before the full board of the landdrost and heemraden of the respective country districts.

Save and except in cases where sentence has been passed by default, from which no re-hearing is allowed, and also save as mentioned in the two succeeding articles.

ART. 127.—No re-hearing before the full court shall be allowed, on sentences passed by two commissioners from the same. Those which may not.

a.) In case such sentence has been given on a complete confession, or

b.) In case the sentence does not impose a heavier penalty than one hundred rix-dollars, and the public prosecutor has not made claim to a larger sum.

ART. 128.—No re-hearing before the full board of landdrost and heemraden, or before the full court of justice, shall be allowed, on sentences passed by the landdrost and a commissioner, or by commissioners from the board of the landdrost and heemraden, or by a commissioner of the court of justice, when the sentence does not impose a heavier fine than five-and-twenty rix-dollars, and the public prosecutor has not made claim to a larger sum. The same continued.

ART. 129.—All other cases may be brought to a re-hearing before the court, whose commissioner or commissioners have passed the sentences, under the following prescriptions and restrictions: Re-hearing to lie before the full court.

ART. 130.—Notice of such re-hearing is to be lodged with the secretary of the court, within forty-eight hours after the sentence has been pronounced, and a sum of five-and-twenty rix-dollars to be at the same time deposited; which sum becomes forfeited, in case, the sentence be confirmed by the full court, or the re-hearing be not duly proceeded in; and the re-hearing shall take place, on the first court-day which shall happen after the expiration of three days from the day of passing the sentence. Notice is to be given, and deposit made.

ART. 131.—In all cases, where the sentences do not attach infamy, or where the effect thereof can be removed by the final decision on the re-hearing, the sentences passed in the first instance, must be complied with before the re-hearing takes place, except in cases where the sentence imposes a pecuniary fine of great importance to the party condemned; in which case, the court pronouncing the sentence, shall be at liberty to take satisfactory security for the amount. In what case execution is not stopped, by notice of re-hearing.

How the right to re-hearing is forfeited.

ART. 132.—In case the notice of re-hearing be not lodged, or the sum of five-and-twenty rix-dollars be not deposited, or the case be not brought before the full court in due time, the right of re-hearing shall be forfeited,

Proceedings in re-hearing.

ART. 133.—After the summons, calling upon the opposite party to attend at the re-audition, shall have been put upon record, the appellant shall exhibit to the court a copy of the records of the proceedings in the first instance, and cause the grounds, on which he considers himself aggrieved, to be stated, verbally, by one of the practitioners of the court; upon which the public prosecutor or respondent shall make his reply, and state his grounds for the confirmation of the sentence; whereupon the re-hearing shall be closed, and sentence passed on the records of the proceedings in the first instance; unless the court should think proper to allow or direct the parties to make a rejoinder and sur-rejoinder previous to passing sentence.

No other evidence to be admitted, than that produced in the first instance, unless by special permission of the court; (and in no case where it could have been previously produced.)

ART. 134.—No other documents or evidence shall be admitted at the re-hearing, but those produced in the first instance; unless by consent of the court, to be given on legal grounds. But such consent shall not be granted, in case it appears to the court, that the appellant or respondent, as the case may be, was aware of the existence of such documents or evidence, at the time of the investigation of the case in the first instance, and had an opportunity of informing the court thereof.

To what court an appeal lies.

ART. 135.—An appeal is allowed from sentences on the perpetration of crimes and misdemeanours, passed by

a.) The respective boards of the landdrost and heemraden, to the commission of circuit, or the full court of justice, and

b.) From definitive sentences of the commission of circuit, or the full court of justice, to the right hon. the court of appeals.

But no appeal lies from sentences passed by default.

Limitations and restrictions on appeals from the court of justice.

ART. 136.—Since all difference between *extraordinary* and *ordinary proceedings* in criminal cases, established by the Dutch law, is done away by the mode of proceeding, prescribed by this ordinance, the right of appeal, in criminal cases, shall likewise no longer depend on such difference; but henceforth the following prescriptions shall be observed:

a.) The condemned person shall not be allowed to appeal from a sentence, involving public punishment, which has been passed by the court of

justice, or the commission of circuit, on a *complete confession* of the delinquent.

b.) Sentences not passed on a *complete confession*, are *only* appealable when they involve *death*.

c.) Notwithstanding these prescriptions, the governor for the time being, shall be at liberty, on the examination of sentences presented to him, for his *fiat*, in all criminal cases, without exception, to give such legal orders and directions as the interest of justice and the welfare of this colony will require.

d.) No appeal is allowed from sentences of the court of justice, or the commission of circuit, containing less than public punishment; unless the execution of such sentences would attach infamy, or impose a penalty of one thousand rix-dollars; in which latter case, however, the sentence given in the first instance must be complied with, or sufficient security for its amount given to the satisfaction of the court which pronounced the sentence appealed from, before the appeal be prosecuted.

The like from landdrost and heemraden.

ART. 137.—No appeal shall be allowed, either to the commission of circuit, or the full court of justice, from sentences passed by the landdrost and heemraden, inflicting public punishment, and passed on *complete confession*, or not involving public punishment nor attaching infamy, not exceeding a fine of *three hundred rix-dollars*, where the public prosecutor has not extended his claim beyond that sum; saving, however, the competency given to the governor for the time being, as expressed in the preceding article, letter *c*.

Appeals lie from sentences on peremptory exceptions; but not from provisional decrees for imprisonment, &c.

ART. 138.—In all cases, where this ordinance admits of a re-hearing or appeal from a definitive sentence, the same shall be admitted, in regard to sentences given on peremptory exceptions. Respecting which, however, the prescriptions contained in the 43d article of this ordinance, are to be observed. But no re-hearing or appeal shall be allowed from provisional decrees, for imprisonment, or summons for personal appearance, or from decrees for the sale of goods seized, which are of a perishable nature, or the value whereof might be absorbed, by the expenses which would follow from their remaining unsold, or from other provisional decrees, which may be amended by final sentence, and do not attach infamy.

Appeals to the right hon. court of appeals, to be lodged in five days.

ART. 139.—The appellant from a sentence passed by the court of justice, or the commission of circuit, and which, according to this ordinance, may be brought before the right honourable the court of appeals, is to lodge his appeal within five days from the passing the sentence appealed from, thenceforth to conform to all orders and regulations already established, or in future to be established by the said right honourable court.

Sentence of that court definitive; saving, the right of the governor to pardon or respite.

ART. 140.—The sentences of the right honourable the court of appeals are definitive, without any further appeal; saving, however, the right of the governor for the time being, to grant pardon, or postpone the execution of the sentence, as heretofore.

Appeals from landdrost and heemraden to be noted in five days. Before what court to be brought.

ART. 141.—An appellant from a sentence of the respective boards of the landdrost and heemraden, which, according to this ordinance, may be appealed from, must note such appeal within five days, from the day such sentence is pronounced; and if, at the time of noting such appeal, the period for the departure of the commission of circuit from Cape Town, has not been officially notified, the board of landdrost and heemraden are, forthwith, to forward to the court of justice the records of the proceedings, on which the sentence appealed from has been passed, in order to obtain their directions, whether the appeal is to be carried on before the full court, or to lie over until the arrival of the commission of circuit.

Proceedings on appeal, before the court of justice.

ART. 142.—In case the appeal is directed to be carried on before the full court, the appellant is, within the period to be prescribed by the court, to cause the grounds on which he conceived himself aggrieved, to be stated verbally by one of the practitioners; whereupon the public prosecutor, or his agent, shall reply thereto, and state his grounds for the confirmation of the sentence; upon which the case shall be closed, and sentence passed on the records, according to law.

In case, however the appellant should be prevented, by lawful reasons, from stating his grievances at the stipulated period, a prolongation shall be granted.

The like before the commission of circuit.

ART. 143.—If the case be referred to the commission of circuit, the same mode of proceeding is to be observed, with the difference only, that the day on which the appeal is to be heard shall be fixed by the commission.

Production of evidence allowed,

ART. 144.—The production of further documents and evidence, not produced in the first instance, shall be sub-

ject to the same rules as those laid down in the 134th article, in regard to re-hearing. without special permission of the court.

ART. 145.—Independent of these regulations, the court appealed to shall be authorized to order such further proceeding, or the production of such further documents, as the discovery of truth,—the protection of innocence,—and the administration of equal and impartial justice shall require. Right of the court *ad quem* to order further proceedings, &c.

ART. 146.—Finally, it is hereby declared, that the laws, proclamations, and regulations after-mentioned, shall henceforth be null and void, so far as the same relate to crimes and misdemeanours, and have been hereby partly or wholly altered or modified, to wit:— Laws, regulations, &c. hereby annulled.

a.) The ordinance on the mode of proceeding in criminal cases, dated the 9th of July, 1750.

b.) The ordinance on the government of the country districts, dated the 24th of October, 1805.

c.) The proclamation, relative to the commission of circuit, dated the 16th of May, 1811.

d.) The proclamation in regard to witnesses and the removal of prisoners, dated the 3d of September, 1813.

e.) The proclamation, respecting the proceedings in open court, dated the 25th of September, 1813.

f.) The proclamation, respecting the mode of proceeding, in regard to seizures and confiscations, and the sale thereof, dated the 21st of October, 1814.

g.) The proclamation, respecting the jurisdiction of the respective boards of the landdrost and heemraden, in criminal cases, dated the 18th of July, 1817.

h.) The proclamation, respecting master, servants, and apprentices, dated the 26th of June, 1818.

i.) The proclamation, relative to appeals in criminal cases, dated the 26th of August, 1818,—And

k.) The proclamation, in regard to defaulters, dated the 1st of January, 1819.

And in order that no person may plead ignorance hereof, these presents shall be published as usual.

Thus done and decreed in the court of justice, at the Cape of Good Hope, the 2d day of September, 1819, and published the 4th day of December following,

(Signed) J. A. TRÜTER, Chief Justice.

By order of the chief justice and members of the court,

(Signed) D. F. BERRANGE, Secretary.

Fiat,

(Signed) CHARLES HENRY SOMERSET.

APPENDIX C.

INSTRUCTIONS

For the Sequestrator, and other Functionaries of his Department; containing likewise, an Ordinance for the judicial Administration of Estates, and for the Execution of Civil Sentences.

CHAPTER I.

GENERAL REGULATIONS.

ART. 1.—The judicial regulation and administration of insolvent and other estates, as well as the execution of civil sentences, which has hitherto been vested with the chamber for regulating insolvent estates, shall, in future, be effected by a *Sequestrator*, assisted by a *Cashier*, who is at the same time to act as *Assistant Sequestrator*; a *Head Clerk*, a *Book-keeper*, three *Ordinary Clerks*, and two *Messengers*.

2. The duties of the sequestrator shall be carried on under the immediate superintendance of the court of justice, whose ordinary assembly he shall be obliged to attend, and make a written report of all his proceedings since the last court day.

3. All the monies received by the sequestrator, shall immediately be paid into the discount bank, and all payments to be made by the sequestrator, shall be done by draft or check, signed by the cashier and assistant sequestrator, on the bank, with which a running cash account is to be kept.

4. The sequestrator, assisted by the head clerk, shall keep a day-book, in which all the daily transactions of the sequestrator's department shall be entered.

5. This day-book, together with the cash-book, and cash account with the bank, duly made up to the date in which the court assemble, shall be exhibited by the sequestrator every ordinary court day, in order to be examined by every member of the court.

6. The sequestrator, assistant sequestrator, or head clerk, shall be present at all public sales, for the same purpose as they were attended, during the existence of the chamber for regulating insolvent estates, by one or more of its members; while, for the rest, the sales shall be held in the usual manner, by a vendue clerk, and one of the messengers, as auctioneer.

7. All inventories shall be taken in presence of the sequestrator, or the assistant sequestrator, on which occasion the head clerk shall act in the same capacity as the secretary of the chamber has hitherto done.

8. The books of the administration of this department shall be regularly closed at the expiration of every year, and a general statement made out from the same, which, being signed by the sequestrator, assistant sequestrator and book-keeper, shall be laid before the court of justice, and by the court forwarded to the governor, for the time being, with such remarks thereon as the court may deem necessary.

9. The following shall belong to the department of the sequestrator:

1st, The estates of all those who, in consequence of inability to pay their creditors, are obliged to stop payment.

2d, All unadministered estates, with the exception, however, of those the administration of which is charged to the orphan chamber, by its instructions or other special law.

3d, The estates of those whose persons and properties may have been placed under curatorship, or any other commission, by the court of justice, unless there may exist sufficient reasons for some other provision.

4th, And finally, the carrying into effect all civil sentences pronounced by any of the courts of law in this colony, with the exception of those only, the execution of which is vested with the boards of landdrost and heemraden, by the 53d and 54th Articles of the Proclamation of the 16th May, 1811.

10. The court of justice shall be at liberty, at the request of the majority of the creditors of an insolvent estate, or *ex officio*, deeming such necessary, to appoint one or more of the principal creditors to act, in conjunction with the sequestrator, as curators for the interest of the joint creditors.

11. The sequestrator and assistant sequestrator shall give good and sufficient security for the due and faithful performance of all their duties, the former in a sum of fifteen, and the latter in a sum of ten thousand rix-dollars, in order to recover therefrom all such damage and loss, as may accrue to the interested parties by their administration, either through wilful impropriety or neglect.

12. In the charging of fees and other costs, the sequestrator is to be regulated by the tariff annexed to these instructions, of which a copy is to be hung up in his office, for the information and guidance of all those whom it may concern.

CHAPTER II.

Of Insolvent, Unadministered, and other Estates, belonging to the Department of the Sequestrator.

13. When any person be so situated as to be unable to pay his creditors, and that he produces sufficient proof of his inability to pay, the sequestrator shall, at his request, take his estate under

sequestration, for the purpose hereafter prescribed by the following articles.

14. The same shall take place when more than one sentence is to be executed against the debtor, and that the debtor's estate appears to the sequestrator to be insufficient to satisfy all executions brought against him; while, in such cases, the estate shall be put under sequestration, without any application from the debtor or creditors.

15. In like manner, after a person's decease, when the heirs, whether *ex testamento* or *ab intestato*, may not deem proper to enter on the estate *simpliciter*, or under the benefit of an inventory, nor to avail themselves of the right of deliberation, such estates shall be put under sequestration in the above-mentioned manner, on the application of one or more of the creditors, producing sufficient vouchers of the validity of their claims, and after examination, if necessary, in presence of a commissioner from the court of justice, of the persons belonging to the house or estate of the deceased.

16. When an assignment of property (*cessio bonorum*) has been granted to any one by the court of justice, the estate of the assigner shall be entered upon as insolvent by the sequestrator, and by him administered and brought to a settlement.

17. The same shall be observed with respect to estates of deceased persons, which may be delivered over as insolvent by the orphan chamber; as also with regard to such estates as may be repudiated by the legal heirs or executors: while such heirs or executors are hereby specially ordered to give due notice thereof to the sequestrator, exhibiting an authentic copy of the act of repudiation executed by them, and this within fourteen days after the passing of such act; otherwise the repudiation shall be considered as not having been made, and no judgment given thereon in any case.

18. As soon as an estate be put under sequestration, or entered upon as insolvent, the sequestrator, assisted by the head clerk, shall repair to the house of the debtor, or where the estate may otherwise be, and there immediately seal the chests, desks, office, and whatever else may be deemed necessary, as also place the books and papers in security; and further, in case it may be considered requisite, deliver over the estate into the charge of the messenger, or some other person duly authorized thereto; of all which the sequestrator shall make report forthwith to the chief justice.

19. This charge of the estate shall, however, be succeeded, as soon as possible, by such measures, either under security for the re-delivery of the goods belonging to the estate, or otherwise, as may be most conducive to the preservation of the estate in the least possible expensive manner.

Should the house where the estate lies, be uninhabited, or

abandoned by the debtor, the charge of the same shall not be given to a messenger; but shall, after the books, papers, and effects of value be properly secured, be judicially locked up by the sequestrator.

20. Should any person conceive to have grounds to oppose the taking possession of the estate, he is to address himself by memorial to the court of justice, exhibiting such vouchers as can tend to prove the grounds of his opposition; which memorial, with the documents annexed, shall be referred to the sequestrator, for his remarks, should he have any, and who having made his report in writing, the court shall decide thereon, according to the circumstances of the case.

The sealing being once commenced by the sequestrator, shall nevertheless be proceeded in, with assistance, in case of forcible opposition, from the fiscal's office; while in this case the costs of the sealing shall be defrayed by the opponents, who shall moreover be punished according to the exigencies of the case.

21. One of the principal duties of the sequestrator is to cause an inventory to be immediately made, in his presence, of the estate, by the head clerk and the messenger, which being completed, shall be signed, under offer of oath, by the debtor, or by those found in the estate, who have made the return of the effects; and as soon as the sequestrator may discover any thing further belonging to the estate, the same shall be immediately added to the inventory.

22. The sequestrator shall be obliged, with the previous knowledge of the chief justice, or should it be deemed expedient by the same, on the authority of the full court, after due investigation, forthwith to convert into money all perishable articles; and further, to collect, through the messenger, as far as possible, all the outstanding debts; all of which monies shall be dealt with as proscribed in Article 3.

23. As soon as an estate be put under sequestration, or entered upon as *insolvent*, all executions against the same shall immediately cease, and all pending proceedings, which from their nature ought to be continued for the benefit of the estate, shall be further carried on by the sequestrator; but such, the prosecution of which may not appear advisable to him, after taking legal advice, shall be terminated with every possible dispatch, either by arbitration or in some other convenient manner.

24. Should any doubt exist as to the legality of any claim, either in favour of or against the debtor, the sequestrator shall be at liberty, in order to prevent expensive proceedings, and facilitate the speedy settlement of the estate, to bring such case to the cognizance of the sitting commissioner of the court of justice, who, after a summary investigation, and should there appear no reason to the contrary, if necessary on oath, of one of the parties,

shall decide the business: reserving, however, to the party cast, the right of appeal to the full court, should the amount in which he be condemned exceed *three hundred rix-dollars, Cape currency.*

25. When a debtor, whose estate has been put under sequestration, wishes to enter into an arrangement with his creditors, the debtor shall be obliged, within eight days after the sequestration, should he reside in town, or in the country within a reasonable time, according to the distance of his residence, to deliver in to the sequestrator the proposals or plan for such arrangement, whether already accepted and signed by any of his creditors or not, together with a list of all those who have not signed, specifying their names, places of abode, amount of their claims, as also the names of the bail who have become security or the debtor, and the pawn or mortgage pledged for the debt.

26. He shall also be obliged, under the direction of the sequestrator, to make out a regular and exact account and balance of his estate, with a faithful statement of the debts due by and to the same, if necessary, under offer of oath, "That such is a full and "true account and balance; and that he is actually indebted the "sums stated therein, and that he has not *male fide* concealed the "names of any of his creditors;" which account and balance, together with the papers of the estate, shall be delivered over to the sequestrator.

27. The documents mentioned in the 25th and 26th Articles being delivered to the sequestrator, he shall examine them without delay, in order to see whether or not the debtor should be allowed to make such proposal to his creditors, which shall not be the case, should it appear to the sequestrator, that the estate is so much loaded with preferent debts, that after the payment thereof, little or nothing would remain to be distributed among the concurrent creditors; and in general, when there is a probability that the proposals will not be accepted by his creditors, or that the debtor will not be able to fulfil them; also not, when the debtor, either by keeping back or concealing of property, by *male fide* secreting books, papers, or outstanding debts, by wilfully concealing the names of any creditor, by secretly benefiting one above the other, or by any other indirect or culpable conduct, shall be found unworthy of such indulgence.

28. When a debtor has been refused by the sequestrator to make a proposal to his creditors, he shall be at liberty, should he conceive himself aggrieved thereby, to memorial the court of justice, within three days after such refusal, when the court, having previously heard the report of the sequestrator, will decide according to the circumstance of the case. But should the sequestrator agree to an arrangement with the creditors, the proposals, together with the documents mentioned in the 25th and 26th Articles, shall remain for a reasonable time, in proportion to the distance of the

creditors' places of abode, in the sequestrator's office, or some other convenient place, for their inspection and signature, and who shall be at liberty, at their own expense, to take extracts or copies of the same; of which due notice shall be given in two successive gazettes.

29. A creditor refusing to sign the proposed arrangement, the bail, provided he or they have paid the creditor the sum for which they were security, shall be considered as creditors in the place of the original creditor, and for the same amount, and as such allowed to sign the proposals; but a creditor having signed himself, shall not come upon the bail for any further sum than he has a right to, by virtue of such arrangement with the debtor; neither shall he have any further claim on the pawn or mortgage which has been pledged for the debt, than for that amount to which he is entitled by his agreement with the debtor.

30. What is prescribed in the five preceding Articles, shall be likewise observed in such cases as are mentioned in Article 15, when the heirs of the estate under sequestration be willing to enter into an arrangement with the creditors, and who, in such case, shall be considered in so far as the representatives of the deceased debtor. And that the heirs of such estate may not be ignorant of its being under sequestration, the sequestrator shall be obliged, as soon as the estate be delivered into his charge, to send written notice thereof to the house of the known heirs, and if the heirs be abroad, by letter; or if unknown, by advertisement in the gazette; unless, should the heirs be absent or abroad, the sequestrator may think it more advantageous for the estate to act otherwise; in which case the court of justice, on application from the sequestrator, will make such disposition respecting the estate as the circumstances of the case may require,

31. It shall be the sequestrator's duty, during the time that the proposals and documents mentioned in Article 26, remain for the inspection of creditors, to use every endeavour to induce them to accept of the proposed terms. After the expiration of the time prescribed, the creditors who have not yet signed, shall be summoned by written notice sent to their houses, or in case of being abroad, by letters, and also by advertisement in the gazette, to appear either personally or by proxy, at the sequestrator's office, on a certain fixed day, who is then to hear them; and, if possible, induce them to accept of the proposals. While those thus called upon, who do not appear, shall be considered as having acceded to the terms proposed.

32. The sequestrator shall be at liberty, should it be proposed by one or more of the creditors, and considered eligible by him, to oblige the joint creditors, or one or more of them, to make oath that they have not entered into any other agreement with the debtor, nor that one of them has been favoured above the other;

and also that they are *bona fide* creditors to the amount specified in the proposals, or claimed by them.

33. After this meeting, a list shall be made out of the claims of those creditors who have not signed in such manner, that the preferent debts be kept separate from the concurrent ones.

When the claims of the concurrent creditors, who have not acceded to the proposals, amount together to 5 per cent. of the *twentieth part* of the whole amount of the debts, the proposals shall be declared as annulled, even should the amount of the debtor's estate be found fully sufficient to make such payment.

But when both the preferent and concurrent claims of the creditors, who have not acceded to the proposals, agreeably to the above regulations, do not amount to the sum required for annulling the proposals, the proposed arrangement shall be then declared as duly effected.

34. When the arrangement be concluded, the same, should there exist no reason to the contrary, shall be approved of by the court of justice; for which purpose, the sequestrator shall transmit to the court the necessary written proposals, annexing thereto all the papers in his possession relative to the estate.

35. The effect of an arrangement so concluded, is, that the estate shall be immediately released from sequestration, on payment of the costs incurred; of which a regular act shall be formed and lodged in the sequestrator's office, in order to the estate being then given up to the interested parties.

The debtor shall, in such case, be obliged first to pay to the preferent creditors, who have not signed or acceded to the arrangement, the full amount of their claims, and afterwards those of the other creditors, in the same manner prescribed in the arrangement: reserving, however, to such concurrent creditors as have not signed, after payment be made by the debtor, their right to come upon the bail for the deficiency.

36. The agreement entered into shall not affect those creditors who do not appear on the list, and consequently who have not been summoned, provided they declare, on oath, that they were not informed in time of the sequestration of the estate, and proposals for arrangement, and that the contrary cannot be proved.

37. The debtor failing to comply strictly with the agreement entered into, and this appearing to the sequestrator; or when the debtor, even after effecting the arrangement by any indirect or faithless conduct, as mentioned in Article 27, may be found unworthy of the privilege of compromising with his creditors, the estate shall immediately be re-taken possession of by the sequestrator, and declared insolvent.

38. The same shall have place when the debtor himself declares, on the sequestrator's entering on the administration of his estate, it to be his wish that the same should be administered as insolvent;

or when no arrangement has been proposed within the time prescribed in Article 25, or proposals being made, refused by the sequestrator, for the reasons mentioned in Article 27; or when the proposed arrangement is not agreed to. While in all cases mentioned in this and the preceding article, the estate shall immediately be administered as insolvent, and brought to a settlement as speedily as possible, by the sequestrator.

39. From the moment that an estate is declared insolvent, the sequestrator shall be considered as in the full possession and administration of the same; and from that moment also, all co-direction of a debtor, whose estate was under sequestration, shall entirely cease.

40. As soon as an estate is declared insolvent, the sequestrator shall advertise it in the Gazette, at the same time prescribing to the creditors a period of six weeks; within which they are to transmit their claims to the sequestrator's office for registration, accompanied with the necessary vouchers of the legality thereof, on pain of deprivation of their rights; but should the known or supposed creditors be absent, or abroad, this term shall be extended according to the circumstances, and at the same time notice hereof given them in the best possible manner.

Creditors, who, after the expiration of the prescribed time, but previous to the dividend of the estate, may bring in their claims, shall forfeit all right of action against the estate, unless they can prove, and, if required, make oath, that they were ignorant of the insolvency, or of the advertisement in the Gazette, and prevented by legal reasons from giving in their claims within the period prescribed; but the estate being once distributed, they shall forfeit all right against either the estate or the other creditors. Further, the publication of 4th September, 1805, respecting transfers, cessions, pledges, and other securities, entered into by the debtor within twenty-eight days previous to the insolvency, is to be considered as if it were here inserted.

41. The sequestrator shall, as speedy as possible, collect in the outstanding debts; and the landed and movable property belonging to the estate shall be sold by public sale, after being advertized in the Gazette, agreeably to the usage here, and the proceeds of the sales, as well as the debts collected, dealt with as directed by the 3d Art. From this sale, however, shall be specially excepted the daily wearing apparel of the debtor and his family, the bedsteads and bedding which they sleep on, and which they require, together with the necessary household furniture; and should the debtor, or any of his family, exercise any trade or handicraft for their subsistence, in such case, the requisite tools thereto; of all which, a list shall be made out and deposited in the sequestrator's office, who, in this respect, is to act entirely according to

the circumstances of the case, keeping in view the situation in life, and age of the debtor.

42. As soon as the sequestrator has advanced so far in the administration and settlement of an estate, that he can ascertain the amount of its value, he shall make out an exact account and balance of the same, containing the proceeds of the sales, both of the landed and movable property, together with the debts already collected or still outstanding, and every thing else appertaining to the estate, as also all debts due by the same; of which account, the sequestrator shall lay before the court a copy, signed by him, on the next ensuing court-day.

43. The proceeds of the estate shall be distributed, first to the preferent creditors, in the order in which they respectively succeed, and then the remainder among the concurrent creditors, by dividend; for which purpose, the sequestrator, after having made out an account of the estate, shall form a plan of distribution, containing first the preferent debts, agreeably to the above-mentioned order, and should any balance remain for the concurrent creditors, then the manner in which such ought to be divided amongst them.

44. The plan of distribution being made out, shall remain, together with the account and papers of the estate, in the sequestrator's office, for the space of fourteen days, or longer, according to the distance of the residence of the creditors, for their inspection, and who shall be at liberty to take copies or extracts from the same, at their own expense; of all which the sequestrator is to give timely notice by advertisement in the Gazette.

45. The creditors shall be at liberty, in so far as the interest of their claims may require, to take their remarks in writing against the plan of distribution, within the above-mentioned period. Also, should the creditors conceive themselves injured in their rights by the plan of preference and concurrence, they shall be at liberty, within the said period, to institute proceedings against the sequestrator before the court of justice, for such purpose as they may deem advisable; in which case, the suit shall be terminated with all possible despatch, either de plano before the sitting commissioner, or before the full court, by weekly terms. But the above-mentioned time being expired, no remarks will be received from the creditors, nor any proceedings respecting preference or concurrence allowed them.

46. After the expiration of the period prescribed by Art. 44, the plan of preference and concurrence, with the account and balance, and further papers, relative both to the estate and to the verification of the several claims; as also, the remarks sent in by the creditors, shall be forwarded by the sequestrator to the court of justice, together with a schedule of all these documents, duly lettered and numbered.

47. The business being in this manner brought to the cognizance of the court of justice, the documents sent in by the sequestrator, as also, in case of any action being instituted by the creditors respecting the preference and concurrence, the documents appertaining to such action, after the proceedings therein shall have been closed, shall, as speedily as possible, be made a subject of deliberation by the court, which shall decide and give judgment on the right of preference and concurrence, according to the circumstances of the case.

48. This sentence of preference and concurrence being given and pronounced, the sequestrator must wait ten days after the promulgation, which having expired without an appeal being noted by any of the creditors against the same, he is to apply to the secretary of the court, from whom he will then receive back the papers, with the sentence, and thereupon immediately proceed to make the payments, agreeably to the manner prescribed thereby. The creditors, on receiving the sums allotted to them, shall not be bound to give any security for the restitution thereof; but should an appeal against the sentence of preference and concurrence be made by any of the creditors, the payment shall be only provisional, and saving the appeal, in which case the creditors shall be obliged to give security *de restituendo*.

49. In order to give all possible celerity to the settlement of estates, the sequestrator shall have the right to give in payment to the creditors, instead of cash, such actions or claims belonging to the debtor as could not yet be collected, of equal value and security however as cash, and which can be considered as such.

50. The proceeds of all small estates not exceeding the sum of four hundred rix-dollars, after deduction of the expenses, shall be divided, without any form of process, by the sequestrator, among the creditors.

For this purpose, the known and unknown creditors must be summoned by messages, letters, or advertisement in the Gazette, a month before, or longer, should circumstances require, to appear on a certain day at the office of the sequestrator, who, having heard the parties, will, in case of dispute respecting the preference and concurrence, decide immediately, and *de plano*, wherefrom no appeal will be allowed; on which the dividend shall be forthwith made, agreeably to the decision of the sequestrator.

51. Should it appear to the sequestrator, previous to the sentence of preference and concurrence being given, that the estate is sufficient for the payment of one or more notorious preferent debts, and that he is enabled to pay these debts, either from the monies already collected, or from the outstanding *liquid* claims, which, as possessing a fixed and prescribed value, can be given to the preferent creditors, instead of cash, he shall be obliged to

tender to such creditors the provisional payment of their demands, however under security *de restituendo*; and in case of refusal to accept the tendered payment, such creditors shall not be allowed to charge any interest to the insolvent estate, from the day of their refusal.

In like manner, the preferent creditors, seeing that the amount of the estate is sufficient, after deduction of the more preferent debts, to pay their claims, and being able, summarily, to prove it; they may apply, by memorial, to the court of justice, praying, that the sequestrator be authorized to pay their claims, in manner and under the conditions above-mentioned, which memorial being referred to the sequestrator, and he having reported thereon, the court will decide on the same, as the exigencies of the case may require.

52. All insolvent and other estates, the administration and settlement of which are charged to the sequestrator, by these instructions, saving the provisional payment of notorious preferent debts, as prescribed in the preceding article, shall be brought to a final settlement, in Cape Town and the Cape district, within six months; in the districts of Stellenbosch and Tulbagh, within nine months; and in the other country districts, within twelve months from the day of the sale.

And in case any legal cause may prevent the strict observance hereof, the sequestrator is to give due notice of the same in his written weekly report to the court of justice, in order that such provision may be made therein, as the circumstances of the case may require.

53. When the sentence of preference and concurrence shall have obtained the force of a definitive judgment, by no appeal having been made by any of the creditors, within the ten days prescribed by law, the debtor shall be at liberty to address the court of justice by memorial, for an act of rehabilitation, provided that he has, in every respect, acted honestly and uprightly, and that he, neither before nor after his insolvency, has been guilty of any of the misdemeanours or indirect conduct mentioned in Article 27; which he must prove to the court, by annexing to his memorial, a declaration, signed by a majority of his creditors, making more than half of the amount of the debts and of the number of his creditors, as also by the sequestrator.

This memorial being received by the court, shall be referred to the sitting commissioner, who is thereupon to summon and hear the creditors who have not signed, and should he deem it necessary, cause the debtor to make oath, 'That he has obtained the 'declaration of his creditors, annexed to his memorial, without 'craft or fraud, and without having bribed any of them, directly 'or indirectly.' On which the commissioner having made his report, the court will finally dispose on the memorial.

54. When this request of the debtor be complied with, an act shall be prepared in the secretary's office of the court of justice, stating:—'That the debtor, both previous and subsequent to his insolvency, acted in every respect, as an honest and upright man;—that he is, therefore, worthy the privileges granted by this ordinance to such debtors, consisting herein; that he is fully discharged and acquitted from all the claims of his creditors, excepting what has been adjudged them by the sentence of preference and concurrence; and that he may trade and negociate as before, and which privileges are granted to him by this public act, accordingly.' This act shall be ratified by the signature of the chief justice, and of the secretary of the court, in the usual manner, and the great seal of the court affixed thereto. And that no person may plead ignorance thereof, it shall be published and affixed, as customary.

55. Every thing above prescribed respecting sequestrated and insolvent estates, shall also be observed, in so far as the nature of the case will allow, with regard to other estates or property, which, although *solvent*, must be administered and brought to a settlement by the sequestrator, in which administration he must act conformably to the laws and usages in observance here, on this head.

56. The following are to be considered as the estates and properties meant by the preceding Article:—

§ *a.* The estates of lunatics and spendthrifts, which are placed in the hands of trustees (curators,) by decree of the court of justice. The court is, however, at liberty, in particular cases, and should there exist sufficient reasons thereto, to appoint other trustees over such persons, and their effects.

b. The estates of those who, in consequence of a criminal accusation, are detained in custody, or imprisoned for crime, unless they may have provided for the administration of their property themselves. Likewise, the estates of those who have laid violent hands on themselves, and who are, therefore, subject to penal laws; such estates, however, to be immediately given up to those who can prove their just right thereto.

c. The estates of all persons dying in this colony, whose heirs are minors, or abroad, should no provision be made for their administration, or the appointed administrators, guardians, or executors, absent or deceased; and if, at the same time, the orphan chamber be excluded, by will, from the administration.

d. All property found in this colony, the owners of which are not here, unknown, or missing, and for the administration of which no person has been appointed, or of which the admi-

nistrator has absented himself, or is dead, without having substituted or surrogated any person in his stead.

e. The joint estates of married persons, who have been separated, by judicial sentence, from bed, board, and community of property, or when a divorce has been decreed; which estates must be brought to a settlement, as much as possible, with the concurrence, and to the satisfaction of both the separated parties, and thereupon divided, according to law.

Should the separated parties, however, memorial the court of justice, the court is authorized to dispense with the sequestrator's interference, and to make such other disposition respecting the division of the estate, as the court may deem proper.

57. No person shall be at liberty, on his own authority, to take or keep possession of any of the estates mentioned in these instructions, but every possessor of any such, must immediately give notice to the sequestrator's office, on pain of being obliged to make good the damage occasioned thereby, to the interested parties, over and above a fine of one hundred rix-dollars, in case the said notification be not made within three days after the illegal possession, and after that the circumstance of such property having fallen under public administration, shall have come to his knowledge; all saving such criminal action as the fiscal, R. O. may conceive it necessary to institute against those who have thereby been guilty of fraud or intentional malversation. The provisions contained in the proclamation of the 15th October, 1813, "Respecting Testamentary Executors, who continue in the administration of estates after the same have appeared to be insolvent," moreover, remaining in full force.

And when an estate falls under the administration of the sequestrator, by virtue of a judicial decree or sentence; as also, when a person be liable to penal law, by criminal custody, or crime, immediate information is to be given thereof to the sequestrator's office, in the former case, by the secretary of the court of justice, and in the latter, by his Majesty's fiscal.

58. When the estates mentioned in Article 56, §§ *a* and *e*, are not administered and brought to a settlement by the sequestrator, the public sales of the same, however, shall be held by him, as vendue-master, and the proceeds thereof, after deduction of the expenses, paid to the interested parties, three months after the sale.

CHAPTER III

Of the Execution of Civil Sentences.

59. No person shall be at liberty to lay over any sentence for execution, against which the party cast has appealed, unless such appeal shall have been declared null and void by the competent

court; or unless the sentence, notwithstanding the appeal, be declared liable to execution, under security.

Superannuated sentences may not either be laid at execution, without a previous decree of the court of justice thereto; neither sentences to which any condition is attached, unless such condition be previously complied with.

60. All those wishing to put a sentence in force, with the execution of which the sequestrator is charged, must summon and re-summon the condemned party to compliance by the messenger of the court, which gave the sentence, in manner hitherto in observance here; on which the sentence, together with the act of summons and re-summons, as also the report of the messenger, shall be delivered into the sequestrator's office, in order to be carried into execution. Sentences by which *parata executib* is decreed, are to be delivered over to the sequestrator, without any previous summons.

61. In case the sentence to be laid for execution, is for the payment of a certain sum of money, the sequestrator shall, as soon as possible, summon the debtor to appear before him, in order to pay the debt, with the costs; or either in person, or by proxy duly authorized, to make a return of, and point out to the sequestrator, such and so much property, from the sale of which the debt, with the costs, can be paid; and should the debtor comply herewith, no charge shall be made for such attendance.

62. On the non-appearance or refusal of the debtor, or some person on his behalf, the sequestrator, or assistant sequestrator, assisted by the head, or one of the other clerks, and a messenger, shall repair to the house of the debtor, within twenty-four hours, should he live in town, or in the vicinity; or if in the country, within so many days' distance as he resides from Cape Town, and there demand, that so much property be pointed out, as the sequestrator, or assistant sequestrator, may deem sufficient to satisfy the sentence; which property shall be immediately inventoried, and a judicial attachment laid on the same.

63. Should this demand be refused, the sequestrator, without requiring any other authority, and if necessary, assisted by the fiscal's officers, or such other strong power, as may be attainable at the time, shall immediately lay an attachment, under inventory, on as much *movable property* belonging to the debtor, as he may deem sufficient to satisfy the execution; of which a regular act shall be made out, and signed by the sequestrator, or assistant sequestrator, together with the head or other clerks, and delivered to the debtor.

64. The above-mentioned shall not, however, have place, should the sentence declare any particular property to be specially bound, and liable to execution for the debt; but in this case such property must first be sold: or if a person be condemned,

not on his own account, but in his capacity as agent, then the property not being pointed out, the sequestrator shall not go on with the execution; but proceed thereto by summoning the party condemned, to comply on pain of confinement, in the same manner, as against those, who are condemned to the performance of any act of deed; from which confinement, however, the party shall be freed, when he can show or confirm on oath, that he has not any property in his possession as agent, which he could point out, wherewith to satisfy the execution.

65. When the property is attached, the sequestrator is to be understood as having the immediate possession; and he is to take special care, either by placing a trusty person in charge, by taking security, or by other sufficient measures, that the goods be not *male fide* conveyed away, or in any other manner withdrawn from his charge.

66. Under this charge, however, the property is not to remain longer than fourteen days, on the expiration of which, if the debtor has not paid in the mean time, or satisfied the creditor in some other manner, the goods are to be publicly sold, in presence of the sequestrator, or assistant sequestrator, having been previously advertized, in the usual manner, in two succeeding Gazettes. These fourteen days, however, shall be extended in the same manner as prescribed in Article 62, to so many days longer, as the place where the sale is to be held, is days' distance from Cape Town.

67. The debtor having paid the creditor within fourteen days after the attachment, or after he has made a voluntary return of property, or having satisfied the creditor in any other manner, shall not be subject to a payment of 2½ per cent. to government; but should he come to a settlement with the creditor after the expiration of these fourteen days, he shall then be obliged to pay the said per centage to the sequestrator, and for which the sentence is to remain executionable, excepting in such case, where the debt continuing, the arrangement between the debtor and creditor has only for its object, the giving a better security for the debt.

68. The sequestrator, previous to the sale of the attached goods, is to make out an exact account of the costs of the execution, including therein the costs of suit, in so far as they can be charged to the debtor; and the sale being commenced, he shall stop the same, as soon as he conceives that the proceeds of those already sold, will be sufficient to satisfy the execution; on which the attachment laid by the sequestrator shall be immediately taken off, and the debtor put in possession of the goods unsold.

69. The proceeds of these sales shall be collected by the messenger, who is to pay them into the office of the sequestrator; in order to their being deposited in the Discount Bank, agreeably to Article 3.

70. Three months after the date of the sale, or such longer term as is allowed to the vendue-masters in the respective country districts for making their payments, the sequestrator is to make out an account of the costs attending the execution; in order to this being deducted from the proceeds, and the remainder paid to the creditor, whether under security *de restituendo*, should the circumstances of the case require it, or without any security.

71. Should a greater sum remain, after deduction of the costs, than the amount of the creditor's claim, the debtor is to be informed thereof, in writing, in order that he may receive the same from the sequestrator's office, on a regular receipt, without any diminution whatsoever, or the payment of any further costs.

72. The account of the costs of the execution may be inspected and examined, in the sequestrator's office, by the debtor, free of all expense, and should he have any complaint against the same, his objections shall, at his request, be examined into by the sitting commissioner of the court of justice, who will then either ratify the account, by his approval, or moderate it, according to circumstances; with which decision, the debtor must be satisfied.

73. Should the sequestrator, after due inquiry, not find sufficient movable property belonging to the debtor, or when the proceeds of the goods sold do not amount to the sum required, execution against the landed property shall be proceeded to; keeping, however, in view, that a large property must not be sold for a small debt, unless the circumstances and interest of the debtor should require it; in which respect the sequestrator is previously to make a reasonable arrangement with the debtor.

74. When landed property be pointed out by the debtor, or declared liable to execution by a sentence, or when in case of an insufficiency of movable property, the execution must be directed against the landed property; the sequestrator shall, within the time prescribed by Article 62; or should the insufficiency of the movable property not appear till after the sale, then immediately after, lay an attachment on the landed property.

75. After the landed property has been attached, the sequestrator is to make a strict inquiry with respect to how far the same may be mortgaged, for which purpose he will be at liberty to take such extracts from the public register of debts, kept in the colonial office, and from the transfer book, as he may deem necessary for his information.

76. Three weeks after the landed property has been attached, it must be publicly sold by the sequestrator, agreeably to the manner in observance here, the sale being previously notified in three successive Gazettes, and by printed hand-bills posted up in the usual places, both in town, and in the country districts.

77. The purchaser of the landed property sold by execution, is to pay the amount to the sequestrator, by three instalments, the

first in cash, immediately, or at the utmost within eight days after the sale, and the two others at one and two years from the day of the sale, without the purchaser being obliged to pay any other interest on the two last instalments, than what may become due after the expiration of the term; while for the payment of these two last instalments, the purchaser shall execute a regular mortgage bond in the colonial office, and shall besides, immediately after the sale, find two good and sufficient securities, who are to bind themselves jointly and severally, and under renunciation of the benefits *ordinis et divisionis*, for the payment of the full sum, and who are to be responsible and liable to execution for the same.

78. After the sale of the landed property, the creditors who may conceive to have any special right by mortgage, on the proceeds of the same, shall be called upon by advertisement in the gazette, and as far as possible by letters sent to their houses, to send in their claims, accompanied with proper vouchers, to the sequestrator's office, within six weeks, or in case of the creditors being absent or abroad, within such time as circumstances will allow, on pain of being deprived of their right; and should the claims of the creditors be sent in within the time prescribed, the sequestrator is then to make out a plan of preference, in which, in the first place, the costs attending the execution are always to be charged, which plan is to be laid before the court of justice, together with the necessary documents for obtaining the sentence of preference; while all further proceedings in this respect shall be carried on in the same manner as prescribed in Articles 45, 46, and 47, regarding insolvent estates.

79. When the sentence of preference is pronounced, the debtor, on giving due receipt, may receive the overplus, which remains after satisfying the execution, in manner as above-mentioned by Article 71, while for the rest, every thing which has been already prescribed with regard to insolvent estates, shall also be observed in this respect.

80. No claim of preference on the proceeds of the landed property sold being made, the sequestrator shall, after the expiration of the time prescribed to the creditors, make out an account of the expenses attending the execution, and further act as above-mentioned in Article 70.

81. The mortgage bond for the second and last instalment of the purchase money being executed by the purchaser, is to be given to the creditors in payment, instead of cash.

82. Should the sequestrator not find sufficient movable nor landed property belonging to the debtor, he is then, in the above-mentioned manner, to attach bonds and other outstanding debts, actions or claims, to which the debtor may be entitled; of which regular notice shall be immediately given, by the messenger, to those who may be so indebted.

83. The outstanding claims belonging to the debtor being thus attached, shall be collected with all possible despatch, and the bonds and actions so attached, as also the outstanding debts, should they be of an illiquid nature, or the interest of the debtor allow of it, and the sequestrator deem it advisable, shall, after being twice advertised in the gazette, be publicly sold to the highest bidder, within the term; and in the manner prescribed by Article 66.

84. In carrying of sentences into execution, the sequestrator must guard against stopping or delaying the execution for any term, unless he may have obtained the written consent and order of the creditor so to do; in which regard, the sequestrator is specially ordered:

a. Not to accept any request for staying the execution, whereby he officially would bind himself to any time or condition; but to consider all requests from creditors for that purpose as unlimited and unconditional, even were any specification of time or condition expressed therein.

b. Not to recommence the execution of any sentence on which a staying has been granted, without the *written* request of the creditors thereto.

c. To return to the creditor, as prescribed, all sentences on which prolongation has been granted, after the expiration of a year from the day of the delay, and to make him pay the costs incurred.

85. Excepting the granting of delay, no other arrangements of whatsoever nature, between the debtor and the creditor, can oblige the sequestrator, *nomine officii*, to deviate from the instructions without higher authority.

86. Should there not be found a sufficiency of either movable or landed property, nor of credits, actions or claims, belonging to the debtor, to satisfy the execution, the sequestrator shall pass and sign a declaration thereof, which is to be deposited in his office for the information of his creditor, who may take a copy of the same, and thereupon proceed agreeably to the manner in observance here, either for civil imprisonment of the debtor, or for the execution of such goods, monies or credits, as the debtor may possess out of the colony. The costs incurred in such proceedings shall be defrayed by the creditor.

87. Should the place where an executional sale is to be held in the country districts, be far from Cape Town, the sequestrator, should it tend to spare expense, shall forward the sentence to the landdrost of the district, who, in carrying the same into execution, shall be obliged strictly to observe these instructions.

88. Sentences, whereby a provisional payment is awarded, are to be carried into execution in two several ways, at the option of the creditor; either by making payment to him under security *de restituendo*, a copy of which act of security is to be delivered to the

debtor with the summons; or by paying the money into the office of the sequestrator, who is to deposit it in the Discount Bank, where the creditor can receive it on a draft from the assistant sequestrator, after having given a like security, and the act thereof being delivered to the debtor.

89. When a person in any capacity, or otherwise, be condemned to the performance of a certain act or deed, and that the sentence be enforced by way of confinement, the plaintiff shall have the right, after the defendant has been confined fourteen days, and still does not comply with the condemnation, to request that the interest which he has in the compliance, may be estimated and converted by the sentence into a certain pecuniary sum; for which purpose he is to deliver in a declaration, which being discussed by the defendant, and thereupon taxed by the court which gave the sentence, the execution shall be effected in the same manner as in all other condemnations for the payment of money.

90. Should the defendant himself, or any other person, conceive to have a right to oppose the execution, he may not take any other step than address by memorial, the court of justice by which the sentence was given, praying for an interdiction to stop the execution, on which the court will grant such disposition, as the laws and manner of proceeding here dictate.

91. Should any gold or silver money be received by the sequestrator, and that its value exceeds the course of exchange of the paper currency for the time being, the sequestrator shall, for account of the estate wherein such specie was found, at the time of entering on the administration, exchange the same for paper money, and bring the greater proceeds thereof to the credit of the estate.

92. The sequestrator, and other functionaries of his department, shall not, either for themselves or for theirs, take out any of the monies under their administration, whether by way of loan or disbursement, were it even on the highest and most unexceptionable security, on pain of infamy and immediate dismissal from their office.

93. These instructions and ordinance shall, at all times, be altered, amplified or curtailed, as the governor for the time being may deem most conducive to the prosperity of the colony.

OATH OF THE SEQUESTRATOR.

I promise and swear to be true and faithful to His Majesty GEORGE, &c. &c. &c.

That I shall, neither from love or from hate, friendship or enmity, affection or disaffection, nor for any cause or reason whatsoever, ever lose sight of the interest of the estates and other admi-

nistrations committed to my charge; but, on the contrary, that I shall, to the best of my power and ability, promote, or cause to be promoted by those under me, the advantage of the same, and of those interested therein; that I shall always show every honour and respect to his excellency the governor, and that I shall strictly follow and obey all the orders of his excellency, as a faithful servant of government; that I shall scrupulously observe, and cause to be observed, by those in my department, the instructions prescribed for the same, with such alterations and amendments as the governor for the time being may deem proper to make; that to obtain this situation, I have never promised or given, or shall promise or give, directly or indirectly, either myself or through others, to any person in or out of government, under any name or pretext whatsoever, any gift or gifts; that I shall never accept, or cause to be accepted, any gift or gifts, or presents, not even of an eatable nature, or of the smallest value, either for myself or for any of my relations, from or in the name of any person who has, or may probably have, any business or claim pending in the sequestrator's office; and that I shall conduct myself, in every respect, as an honourable and faithful sequestrator ought and is bound to do.

"So HELP ME GOD."

OATH FOR THE ASSISTANT SEQUESTRATOR.

"I promise and swear to be true and faithful to His Majesty GEORGE, &c. &c. &c.

"That I shall neither from love or hate, friendship or enmity, affection or disaffection, nor for any cause or reason whatsoever, ever lose sight of the interest of the estates and other administrations committed to my charge; but, on the contrary, that I shall, to the best of my power and ability, promote, and in the absence of the sequestrator, cause to be promoted, the advantages of the same, and of those intrusted therein; that I shall always show every honour and respect to the governor for the time being; and, as a faithful servant of government, strictly follow and obey the orders of his excellency; that I shall scrupulously observe, and in the absence of the sequestrator, cause to be observed by every one belonging to this department, the instructions prescribed for the same, with such alterations and amendments as the governor for the time being may deem proper to make; that I shall observe the most scrupulous and faithful exactness in keeping my cash book and cash account with the bank; and take care that the same shall be always so balanced, that it can, on the first requisition, be produced to government, or to the court of justice; that to obtain this situation, I have never promised or given, or shall promise or give, directly or indirectly, either myself or through

others, to any person in or out of government, under any name or pretext whatsoever, any gift or gifts; that I shall never accept or cause to be accepted, any gift, gifts or presents, not even of an eatable nature, or of the smallest value, either for myself or for any of my relations, from or in the name of any person who has, or may probably have, any business or claim pending in the sequestrator's office; and that I shall further conduct myself, in every respect, as an honourable and faithful assistant sequestrator ought and is bound to do. "SO HELP ME GOD!"

OATH FOR THE HEAD CLERK.

"I promise and swear to be true and faithful to His Majesty GEORGE, &c. &c. &c.

"That I shall faithfully perform and discharge all the duties of head clerk in the sequestrator's department, to the best of my power and abilities, conformably to the instructions already or hereafter to be prescribed; that I shall follow and obey the orders and directions of the sequestrator, and assistant sequestrator, and take care that the documents and papers belonging to the department, be kept and preserved in good order; that I shall never disclose any thing, which either from its nature, or in consequence of orders given, should be kept secret; that to obtain this situation, I have never promised or given, or shall promise or give, directly or indirectly, either myself or through others, to any person in or out of government, under any name or pretext whatsoever, any gift or gifts; that I shall never accept, or cause to be accepted, any gift, gifts or presents, not even of an eatable nature, or of the smallest value, either for myself or for any of my relations, from or in the name of any person who has, or may probably have, any business or claim pending in the sequestrator's office; and that I shall further conduct myself, in every respect, as an honourable and faithful head clerk in the sequestrator's department ought and is bound to do. "SO HELP ME GOD!"

OATH FOR THE BOOK-KEEPER.

"I promise and swear to be true and faithful to His Majesty GEORGE, &c. &c. &c.

"That I shall faithfully perform and discharge all the duties of book-keeper to the sequestrator's department, to the best of my power and abilities, conformably to the instructions already or hereafter to be prescribed for the same; that I shall follow and obey the orders and directions of the sequestrator and assistant sequestrator, and take care that the books belonging to the department be kept with the most scrupulous fidelity and exactness; that I shall never disclose any thing, which either from its nature

or in consequence of orders given, should be kept secret; that to obtain this situation, I have never promised or given, or shall promise or give, directly or indirectly, either myself or through others, to any person in or out of government, under any name or pretext whatsoever, any gift or gifts; neither shall I ever accept of, or cause to be accepted, any gift, gifts or presents, not even of an eatable nature, or of the smallest value, either for myself or for any of my relations, from or in the name of any person, who has or may probably have, any business or claim pending in the sequestrator's office; and that I shall further conduct myself, in every respect, as an honourable and faithful book-keeper to the sequestrator's department ought and is bound to do.

"So HELP ME GOD!"

TARIFF, agreeably to which the Sequestrator is to regulate himself, in the charging of Fees and other Expenses, attending Estates administered and settled by him, and the Execution of Civil Sentences:—

	Per Cent.
On all public sales of landed as well as movable property	5
On all payments made to the sequestrator, on account of insolvent and other estates	2½
On the amount of all civil sentences, which have been brought to execution and settled in cash, or otherwise, whether the settlement has been made in the sequestrator's office, or between the debtor and creditor, provided, in the latter case, (vide the 67th Article of the Instructions,) such settlement be made subsequent to the expiration of fourteen days after, that the debtor has made a voluntary return of property, or the goods have been attached by the sequestrator	2½

Besides the above, the Sequestrator may charge the following Fees, viz.,—

In Insolvent and other Estates,

THE SEQUESTRATOR, OR ASSISTANT SEQUESTRATOR.

	Rds.	Sks.
For attendance, and writing in the day book every appearance prescribed in the Instructions	2	4
For attendance at taking an inventory, per day	2	0
For attendance at the sale, per day	2	0
For making out the accounts of the proceeds of an estate	2	0
For signing the same	0	4

	Rds.	Sk.
For making out a plan of distribution of an estate, for the inspection of creditors and other interested parties, and thereupon to be submitted to the court of justice, for approval,—per page	0	4
For making out the account of settlement of estates not insolvent,—per page	0	4

HEAD CLERK.

For drawing up the inventory	0	5
For attendance at taking the same,—per day	2	0

In the Execution of Civil Sentences,

The SEQUESTRATOR, or ASSISTANT SEQUESTRATOR.

For attendance, and entering in the day book, at the return of or laying an attachment on property	2	4
For ditto ditto, when the debtor does not appear	2	0
For ditto ditto, at public sale,—per day	2	0
For making out the account of the settlement,—per page	0	4
For signing the same	0	4

HEAD CLERK.

For registering a sentence laid over for execution	1	0
For expunging the same	1	0
For making out the inventory of goods, returned or attached	0	5
For attendance at taking the inventory, per day	2	0

The MESSENGER, in both Cases.

For every appointment ordered by the sequestrator, agreeably to the instructions	1	0
For attendance at taking the inventory, per day	1	0
For ditto at the sale,—per day	1	0
For ditto at making out the account of settlement	1	0

NOTE.—Besides these fees, the accounts are to be charged with the usual stamp duty on each, agreeably to the Stamp Act.

All attendance out of town is to be charged double: on such occasion, waggon hire, and other necessary expenses, are also to be charged.

An account of fees shall be made out at the expiration of every quarter, observing the usual form, and thereupon paid out of the bank into the treasury.

6 305 (d)

APPENDIX D.

PROCLAMATION.

By His Excellency the Right Hon. General Lord Charles Henry Somerset, one of His Majesty's Most Honourable Privy Council, Colonel of His Majesty's 1st West India Regiment, Governor and Commander in Chief of His Majesty's Castle, Town, and Settlement of the Cape of Good Hope, in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice Admiral of the same, Commander of the Forces, &c. &c. &c.

WHEREAS his Majesty's receiver-general has reported, to me, that there is at present in his custody, the sum of fifty thousand rix-dollars, worn out and defaced paper-money, unfit for further circulation.

These are, therefore, to order and direct, in virtue of the power and authority by his Majesty in me vested, that the secretary of the court of justice do, on Tuesday, the 9th instant, attend at the colonial secretary's office, where, on application to the colonial secretary, (in whose custody they are,) he will receive the stamps, together with the quantity of cartoon necessary for the purpose, and that he do, in the presence of the fiscal and two members of the court of justice, who are hereby required to attend at the time aforesaid, at the usual place, and in the usual manner, cause the number of

1,000 pieces of 20 rix-dollars, the backs of which are green, and marked [20]

1,000 pieces of 10 rix-dollars, the backs of which are brown, and marked [10]

1,000 pieces of 5 rix-dollars, the backs of which are pink, and marked [5]

1,000 pieces of 4 rix-dollars, the backs of which are red, and marked [4]

1,000 pieces of 3 rix-dollars, the backs of which are orange, and marked [3]

2,000 pieces of 2 rix-dollars, the backs of which are black, and marked [2]

4,000 pieces of 1 rix-dollar, the backs of which are blue, and marked [1]

to be stamped; which pieces, when so stamped, are to be delivered by the fiscal and members of the court of justice, aforesaid, to the colonial secretary, to whom they are also at the same time to return the stamps; which stamps, being replaced in the box in which they are usually kept, the box shall be sealed with

my seal, and with that of the court of justice, so to remain until further wanted; of all which the fiscal and members of the court of justice are to make a public act of certification, in the presence of the court, on the next court-day, to be registered in the records of the court.

And it is further directed, that such stamped pieces, (being regularly marked and numbered,) and the value of each piece, with the date, duly printed thereon, shall be signed as follows:—

1,000 pieces of 20 rix-dollars, 1,000 pieces of 10 rds., 1,000 pieces of 5 rds., and 1,000 pieces of 4 rds., by *Messrs. W. Hiddingh, W. J. Klerck*, and *J. F. Munnik.*

1,000 pieces of 3 rds., and 2,000 pieces of 2 rds., by *Messrs. F. R. Bresler, A. V. Bergh*, and *J. C. Gie.*

4,000 pieces of 1 rd., by *Messrs. J. C. Fleck, A. J. van Breda*, and *P. J. Poggenpoel.*

And it is also further directed, that such money, so stamped and signed, do remain in the custody of his Majesty's receiver-general, until report be made of its being finished; when such further orders shall be given as may be expedient.

And for the several matters herein-mentioned, this shall be to all concerned a full and sufficient warrant; and, for the public information and satisfaction, it is further directed, that it shall be published and affixed in the manner usual with all other proclamations.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 4th day of April, 1822.

(Signed) C. H. SOMERSET.

By command of his excellency the governor,

(Signed) C. BIRD, Secretary.

APPENDIX E.

INSTRUCTIONS

For the licensed Bakers, in addition to those decreed by the President and Members of the Burgher Senate, on the 14th November, 1809, and affirmed by the Fiat of his Excellency the Governor.

ART. 1. The licensed bakers shall be obliged to pay into the grain administration fund, one rix-dollar on each muid of corn or flour disposed of, for support of said fund, and defraying the expenses attending the administration.

2. In order that the committee may ascertain the amount of fees arising therefrom, the licensed bakers shall be obliged to send to the store-keeper and treasurer of the grain administration, every Monday morning, between 9 and 12 o'clock, a written statement, on oath, of the quantity of corn and flour disposed of during the last week; and then pay the aforesaid one rix-dollar on each muid.

3. The licensed bakers shall at all times be obliged to take such quantity of corn or flour from the town grain magazines as the burgher senate may deem expedient to be sold and baked, for the security of the town; paying for the same, in ready money, at the rate fixed by the burgher senate.

4. In order that the inhabitants may have good and wholesome bread, (as damaged corn and flour might happen to be imported,) the bakers shall not be allowed to bake foreign corn or flour, unless previously examined and approved of by the burgher senate.

5. Should the licensed bakers not attend to these regulations, they shall, (independent of the fines fixed by the regulations of the 14th November, 1809,) forfeit a sum of 100 rds. for the first offence; 500 rds. for the second; and 1,000 rds. for the third, and be deprived of their licenses; and in case they do not comply with the 2d Article, (being of the most importance to the grain administration,) their shops will be shut up by order of the burgher senate, and then not allowed to sell bread, &c. until complying with the tenor of said Article.

6. The licensed bakers must submit to any further regulations as the burgher senate (under sanction of government) shall deem requisite for the benefit of the public; and be obliged, at the option of the burgher senate, (though they have forfeited the fines in not complying to their engagements,) to continue baking until the end of the year for which they have agreed; and to consider themselves further liable to any other fines they may incur.

The fines forfeited will be appropriated in the following manner:—One-third to the informer; and the other two-thirds to the grain administration fund.

Thus done and decreed, at the meeting of the burgher senate, Cape of Good Hope, on the 10th December, 1821.

(Signed) M. VAN BREDA, President.

By command of the president and members of the burgher senate,

(Signed) P. J. TRUTER, Secretary,

Fiat,

(Signed) C. H. SOMERSET.

APPENDIX F.

RENEWED REGULATIONS FOR THE PRIVILEGED BUTCHERS.

ART. 1. No person shall be permitted to carry on the trade of a privileged butcher, unless he is a burgher of this colony, and duly provided with a license from his excellency the governor to that effect, on a proper stamp.

2. Any person desirous of carrying on the butcher's trade in Cape Town, must address himself either personally or in writing, to the burgher senate, signifying his intention, before ultimo October of the current year; but not to commence before the 1st of January following, nor discontinue until the expiration of a full year; for the due performance of which, he must pass a bond before commissioners of the burgher senate, in which he binds himself in the sum of 1,500 rds., to be forfeited should he be found to have discontinued carrying on the butcher's trade, before the expiration of a full year, notwithstanding his obligation of continuing the same; and for which sum of 1,500 rds. as aforesaid, he must produce two good securities, who are likewise to bind themselves respectively for the fulfilment of the said sum: he is then to apply at the colonial secretary's office, for a license for one year, written on such a stamp as is established by the laws of the colony.

3. No person, except the privileged butchers in Cape Town, shall be allowed to sell, or otherwise dispose of live cattle, sheep, or goats, for the purpose of being killed, neither the meat nor the fat of the same, under a penalty of 1,500 rds., with confiscation of the cattle, meat or fat, thus illegally disposed of.

4. The burgher senate have, however, at all times, the power of permitting other inhabitants and burghers of this colony, (not provided with licenses for carrying on the butcher's trade,) to kill cattle in their possession in Cape Town, and to sell the meat and fat to the inhabitants, or persons belonging to ships at anchor in this bay, provided they submit to such conditions and restrictions as will be prescribed in the latter part of these regulations.

5. The slaughter houses and shops, mentioned in the 2d and 3d Articles of the regulations of the year 1809, (now in use,) will cease after the building, now erecting by the burgher senate, shall be completed as public shambles, and as soon as the privileged butchers shall have taken possession of the several apartments in said buildings, which will be allotted to them, *(gratis,)* for the purpose of killing and selling their meat, &c. the further use of the slaughter houses and shops in Cape Town, at present occupied by them, is prohibited, on a penalty of 100 rds. for each

transgression; and they shall not be allowed to sell meat or fat, at any other place, than in the apartments allotted or ceded to them for that purpose, in said building.

6. The privileged butchers shall keep their shops open daily, from sunrise until 12 o'clock at noon; and from 1 o'clock in the afternoon until sunset.

7. The butchers are bound to cause their horned cattle, intended for slaughter or sale, to be driven to the shambles, along the road leading between the canal of the castle and the parade square, before 8 o'clock in the morning. No cattle brought in for the purpose of being killed, or otherwise disposed of, shall be driven to the shambles by any other road, under a penalty of 100 rds., and under the same responsibility as mentioned in the 2d Article: in extraordinary cases, however, the privileged butchers will be allowed to drive in horned cattle, in the afore-mentioned way, after 8 o'clock, provided a written permission for that purpose be obtained from the director of the shambles.

8. No wild ox or cattle is allowed to be conveyed or driven through the streets, or exposed to public view, in any public place in the town, under a penalty of 50 rds. to be forfeited by the butcher to whom such animals belong, who is also bound to make good any injury sustained in consequence: the butchers are, however, allowed to drive stall-fed and quiet cattle through the streets, (properly secured, and attended by a leader and driver,) provided a written permission from the director of the shambles shall have been obtained for that purpose.

9. Every privileged butcher shall be obliged to have his name, and number, painted on a board, over the door of his shop, in large and legible letters.

10. Eight days before the expiration of each month, the butchers are to inform the burgher senate the price at which they intend to sell their meat and fat during the ensuing month, and which price they are not to raise during that period, without the express consent of the burgher senate, who are authorized to inquire into the reasons for such enhancement of price; and on finding the same ungrounded, to object thereto. Should the butchers think themselves thereby aggrieved, they can address themselves to government.

11. In order that the public may be regularly informed of the price of meat, the burgher senate will notify, at the commencement of every month, the proper prices at which the butcher shall be obliged to sell his meat and fat during the current month; such notification to be signed by the director of the shambles, and placed on a board at each butcher's shop.

12. In case a butcher is found to have sold meat or fat at a higher price than is fixed, agreeably to the foregoing Articles, he shall forfeit, for the first offence, 100 rds; for the second, 300;

and for the third, 1,000: and should the butcher be detected in having delivered short weight, or committed any other fraud, he shall, moreover, be liable to such correction and punishment as the law directs.

13. In order that these and other regulations relative to the butcher's trade, be duly observed, and the transgressors may not escape their well-deserved punishment, his Majesty's fiscal, the burgher senate, or commissioners of the burgher senate, as well as the chief functionaries attached to the shambles, are authorized to visit the butchers' shops, or cause the same to be visited as often as they may think proper.

14. With regard to the purchase of cattle by the privileged butchers, it is enacted, that no privileged butcher shall be allowed to purchase more cattle than he requires for the usual consumption of his shop: should he be found guilty of having acted contrary to these instructions, he will be subject to a penalty of 1,000 rds., agreeably to the proclamation, dated 23d June, 1800, independent of the punishment set forth for the crime of monopoly.

15. It is also enacted, that no privileged butcher is allowed to travel into the interior of the colony, for the purpose of purchasing cattle, or send any other person for that purpose, without being provided with written instructions, or an order from the director of the shambles, which shall specify:

a) The number of cattle and sheep to be purchased during the journey.

b) The manner of payment which is to be adopted, whether in cash or by bonds, the number of which to be taken for the journey must be specified in the instructions.

c) The manner in which these bonds are to be drawn out, viz.:

1. They are to be numbered.

2. They must contain a declaration, signed by the butcher, on whose account the purchase is made, that he binds himself for the prompt payment of such bonds, filled up either in his own handwriting and signature, or that of the persons so employed by him; as also that he will, by virtue of this engagement, authorize his wife, or any one of his family, to pay such bonds during his absence, without any further special order; and that in case any misunderstanding should take place, he will submit himself to the immediate decision of his honor the chief justice, or president of the worshipful the court of justice; or, during his absence, or any legal impediment, to that of the senior member of the said court, without any further form of process, and assign over his person and property for *parata executio*.

3. That not only the number of cattle purchased by the butcher, or the person employed by him, but also the amount of

the purchase-money agreed for, must be inserted in their own hand-writing, and with their own signature, in words as well as figures.

d) An order or direction not to deliver the butcher's notes to the sellers, before the cattle is delivered.

e) A similar order, to povide himself with a list, in which he must insert the names and residences of the country people from whom he purchases cattle, as also the description and number of the same; the amount of purchase-money, whether paid in cash or by butchers' notes; and in the latter case, the days when such notes become due, and the numbers of the notes given in payment.

f) And, finally, a stipulated time when the butcher, or the person employed by him, engages to be in town.

These instructions are to be made out in the above-mentioned manner, and signed in duplicate by the director of the shambles; the butcher and his servant (in the event of the journey being undertaken by a servant) are to make oath before his Majesty's fiscal, or one of his deputies, that the orders therein contained, and no other, shall be faithfully complied with—one of which duplicates is to be lodged in the fiscal's office, previous to the journey being undertaken.

The foregoing is to be strictly to be observed by the butchers, under a penalty of 3,000 rds., agreeably to the proclamation of the 2d of October, 1798; and any servant acting contrary to the contents of this Article, shall be liable to temporary imprisonment, or other discretionary punishment.

16. The butcher, or person employed by him, shall be obliged to deliver to his Majesty's fiscal, within a week after his return, the lists of cattle purchased by him, and a duplicate thereof to the director of the shambles, under a penalty of 100 rds.

17. Any privileged butcher failing to pay any of his notes on demand, the holder can apply to his honor the chief justice, or president of the worshipful court of justice, who will summon the debtor, through the messenger of the said court, for payment, which if not made, an immediate decree of *parata executio* will be granted.

18. No cattle shall be slaughtered until inspected and approved by the selecter of cattle; neither shall any meat or fat be sold until approved by the said functionary, agreeably to his instructions; and any butcher transgressing this order shall forfeit, for the first offence, 200 rds.; for the second a similar fine, and his shop shut up for a week; and for the third offence, 1,000 rds. with the forfeiture of his license. The butchers conceiving themselves to be in any shape aggrieved, are at liberty to lay their grievances before the director for his decision; and further, to appeal to the president and members of the burgher senate.

19. The butchers shall be obliged daily to collect the blood

and other filth, which may accumulate in their shops, into tubs, and have the same carried into the sea, through the back-gate of their slaughter-house, under a penalty of 100 rds.

20. The butchers shall have the use of the apartments and appurtenances in the shambles, *gratis*; they are only to provide themselves, at their own expense, with all portable materials necessary for carrying on their trade;—they are bound to keep the buildings and appurtenances occupied by them in proper repair; any damage done to the buildings, either by the butchers or those employed by them, shall be estimated by the town inspector and surveyor, and the amount of such damage be paid into the town treasury; but any damage otherwise sustained shall be defrayed by the town treasury.

21. In order to keep the buildings in repair, and to continue the administration, &c. the following duties shall be levied, viz.:—

For horned cattle, either for slaughter or sale, 2 rds. each.
For a calf . . . . . 1 rd.
For a sheep or goat . . . . . 14 stivers.
For a lamb . . . . . 12 stivers.

22. The levying and payment of the taxes must be made daily, between the hours of 9 and 12 in the forenoon, (Sundays and holidays excepted,) at the office of the director of the shambles, agreeably to the instructions prescribed for that officer, upon receipt of the written reports of what has been killed and sold the preceding days. Should the butcher wilfully neglect paying such duties, he shall forfeit, for the first offence, 100 rds.; for the second, 500 rds.; and for the third, 1,000 rds. Independent of these fines, he will be moreover liable to the forfeiture of his license, besides an arbitrary punishment, according to circumstances, should he be detected in having fraudulently transgressed these instructions.

23. The butchers are bound to keep the buildings, both within and without, as also from the front to the sea shore, in a cleanly state; likewise, to wash the wood-work and windows twice a week, (the days to be hereafter fixed.) The shambles, sewers, and gutters, must be cleaned daily, or as often as is necessary. Each butcher will be held responsible for the due performance thereof; in default of which, a penalty of 25 rds. for each offence will be inflicted.

24. The butchers shall report in writing, and under their own signature, to the director, monthly, and before the expiration of the seventh day of each month, for the information of the burgher senate, the number of cattle sold, alive or dead, during the preceding month; also, the weight of meat and fat, the number of cattle remaining in their possession, and also, how many servants are sent to purchase cattle, under a penalty of 100 rds.

25. It is further enacted, with regard to the recovery of the

penalties quoted in these regulations, that the 88th and 89th Articles of the criminal code of laws, established in this colony, must be strictly observed; and the distribution made as follows:

One-third to the prosecutor,
One-third to the informer, and the remaining
One-third to the funds of the hall.

26. Any person, not being a licensed butcher, and who may feel inclined to sell the meat or fat of cattle killed by him, must first apply to the burgher senate, and obtain a special permission. This application must state what species and number of cattle he intends to kill and sell; he must then submit himself to the following restrictions, viz.:—

1. That he shall kill his cattle in one of the apartments of the shambles, allotted to him for that purpose, and for which he shall pay to the burgher senate a reasonable rent, for the time required in killing such cattle and selling the fat.

2. That he shall pay for the cattle so killed and sold double the duties inserted in these regulations.

APPENDIX G.

PROCLAMATION.

By his Excellency Major General Sir Rufane Shawe Donkin, Knight Commander of the Most Honourable and Military Order of the Bath, Acting Governor and Commanding in Chief His Majesty's Forces at the Cape of Good Hope, &c. &c. &c.

WHEREAS it has been represented to me, to be desirable, for establishing regularity in the administration, and uniformity in the execution, of the orders and regulations respecting the sale and retail of the Cape and foreign wines, and malt and spirituous liquors, throughout this colony, that the said orders and regulations shall be collected and embodied.

And whereas the present circumstances of this colony, and the abuses which, from time to time, have crept into the aforesaid administration, have rendered it necessary to make partial changes therein, and to extend the same:—In renewing, altering, and amplifying the said orders and regulations, I have, therefore, thought fit to order and direct, by these presents:—

1. That no one shall be allowed to store for sale, or sell wholesale, any Cape or foreign wines, malt or spirituous liquors; such persons excepted as shall have obtained, for that purpose, from the colonial government, either by farming or otherwise, the thereunto necessary license or permission.

2. From this general rule is, however, excepted the wholesale importation and sale of foreign wines, beer, and spirits, in as far as they are not already, by existing laws, or shall not be declared to be included in the wine or other farms, which shall hereinafter be mentioned. The sale and purchase, therefore, of the aforesaid foreign wines, beer, and spirituous liquors, in the cases, casks, or packages in which they shall have been imported, and have been duly registered in the books of the custom-houses of Cape Town and Simon's Town, is hereby permitted, provided the said cases, casks, and other packages, do not contain less than two gallons and a half, or twelve common bottles of foreign wine; seven gallons and a half, or thirty-six common bottles, or fifteen flasks of foreign gin, brandy, arrack, or rum; two gallons and a half, or twelve common bottles of other foreign spirits; and one anker, or forty common bottles of foreign beer. And, in like manner, the sale of the aforesaid foreign wines, beer, and spirits, after they shall have been taken out of the cases, casks, and packages, in which they shall have been imported, is permitted, in quantities of not less than seventy-two common bottles.

3. From the general rule are likewise excepted, all public sales of Cape and foreign wines, beer, and spirituous liquors, in as far as these take place for the liquidation or settling of estates by judicial decrees, or by the orphan chamber, the sequestrator, or other public boards, or officers; as also by, or on behalf of, testamentary executors, or of agents for persons having left the colony:—all these are allowed to sell, or cause to be sold, publicly, Cape and foreign wines, and spirituous liquors, in the following quantities: viz.—Cape wines, not less than fifteen gallons, or seventy-two common bottles; and foreign wines, not less than seven gallons and a half, or thirty-six common bottles; or remnants of each sort, should there be less than the said quantities: and, moreover, all unbroken cases, casks, or packages of foreign wines, beer, and spirituous liquors, as specified in the 2d Article, in the cases, casks, or other packages, in which they shall have been imported.

4. From these general rules are also excepted, as heretofore, all wine-growers, who shall be allowed, without molestation, to store their wines in such places as they shall think proper; and also, as heretofore, shall be allowed to sell their wines at public markets, or on their own estates, either to shipping or to the inhabitants, for consumption or for exportation; not, however, in less quantity than a half-aum; provided, nevertheless, that as to the time of bringing their wines to Cape Town or Simon's Town, as also with respect to whatsoever is required to precede the shipping and exporting of their wines, they conform strictly to such regulations as are, or shall be, prescribed for these objects.

5. The wine-growers shall, however, not be allowed to sell their wines within the limits of any wine farm or license, to any other but such farmer or licensed wine-seller, either directly or indirectly, unless they shall have received a proper license for that purpose, and that they strictly conform to the rules therein prescribed; by neglect of which, such license shall forthwith be forfeited; and on selling any wine without license, the offender shall be liable to a fine of 300 rds.

6. As the exportation of new wines is found to have very injurious effects upon the demand for this important article of produce, in order to prevent its exportation, and the frauds that might be committed, by mixing new and old wines, no wine shall be allowed to be brought into Cape Town, Simon's Town, or any other place from whence it might be exported, in any casks, of whatsoever size or quantity, except by my special permission, or that of the governor for the time being, from the 1st day of February, to the last day of August, of each year, on pain of confiscation of the wines so brought, contrary to the intention hereof, and of the casks in which it is contained.

7. From the foregoing article, however, those particular wines shall be excepted, which are allowed to be brought in, in smaller casks, and small quantities, containing no more than half a legget, viz.—Constantia, or fine dessert wines of that nature; provided that for this purpose a written permission be obtained from his Majesty's fiscal, by which he may be enabled to guard against the infringement of the regulations contained in the foregoing Article, under this pretext.

8. In order to prevent the foregoing prohibition from interrupting the ordinary transport of Cape wine to Simon's Town, which has been brought into Cape Town in proper seasons, it is to be understood, that the wine merchants in Cape Town, and others, shall be allowed to take wine from Cape Town to Simon's Town, provided they have obtained from the collector of tithes, a certificate for every case, cask, or other package, wherein such wine is transported, in proof of the said wine having been brought in, in proper season, and that the duties have been duly paid thereon. And all Cape wine which, without such certificate, shall be brought into Simon's Town, between the 1st day of February, and the last day of August, of each year, shall be subject to the confiscation directed by the 6th Article, and moreover to such penalties as are attached to the non-payment of the duties on wines brought to market; and the collector of tithes, as also his Majesty's fiscal, and the resident of Simon's Town, are hereby directed to be careful, that the regulations directed by this and the foregoing 6th and 7th Articles be strictly observed.

9. No person shall be allowed to store for sale, or sell any Cape wine, brandy, or other spirituous liquors, by the half-aum,

or larger casks, without having previously obtained my license, or that of the governor for the time being, on a stamp of 50 rds. which license must be registered in the colonial office, the fiscal's office, and at the office of the burgher senate, or landdrosts' offices, as the case may be, and be annually renewed, under penalty of a fine of 150 rds. to be levied on the person who shall, without having obtained such license, have sold, wholesale, Cape wine, brandy, or other Cape spirituous liquors, and such defaulter shall be, moreover, compelled to provide himself with the required license.

10. Wine merchants, who shall have obtained the aforesaid licenses, shall sell their wines, and other liquors, from stores, cellars, or other places, which open into a public street, or road, during the summer, between the hours of 6 and 12 in the forenoon, and between those of 1 and 7 in the afternoon; and during the winter, between the hours of 7 and 12, in the forenoon, and 1 and 5 in the afternoon, (Sundays and holidays excepted,) during which hours, the doors are to be constantly open; and such venders shall not be permitted to have a screen, or to place casks, or any thing else, before the store or cellar, or other place, by which the view into it shall be obstructed, on pain of forfeiting the said license.

11. These licensed wine-sellers shall, however, not be allowed to sell or to deliver any wine, or other liquors expressed in their licenses, by the half-aum, or larger casks, to any of the retailers, (by-tappers,) of the respective wine-farmers; nor shall any of these retailers be allowed to receive such;—defaulters herein, the seller, as well as the receiver, shall be considered as smugglers, and as such, be liable to such fines and penalties as are directed by the 14th Article of this proclamation.

12. The licensed wine-seller shall not be permitted to sell to any officer whomsoever, for his own use, or for that of the mess to which he may belong, either in the castle, or in barracks in Cape Town, or in such other places to which this order shall, by my commands, or by the commands of the governor for the time being, be made to extend, any Cape wine, or other liquors, comprised in their licenses, by the half-aum, or larger casks, unless a written certificate from the officer by whom the wine or other liquors shall be required, be delivered to him, specifying whether the wine, &c. be for his own use, or for that of the mess; and the wine-seller shall, moreover, previous to his delivering such wine, &c. send a certificate, expressing to whom the wine is to be delivered, to the wine-farmer within whose limits the castle, barracks, or such other place above alluded to, is situated, under the same penalties as are expressed in the foregoing article.

13. In like manner the licensed wine-sellers shall not be permitted to sell any wine, or other liquors expressed in their

licenses, by the half-aum, or larger casks, to any non-commissioned officer or private soldier residing in the castle, barracks, or any such other place alluded to in the foregoing Article, under similar penalties: non-commissioned officers or privates, not residing in the castle, barracks, or such other places as before alluded to, provided they are not servants, are not included in the above regulations; but are permitted to obtain for their own use from the wine-sellers, wine or other liquors, by the half-aum, or larger casks, on producing a certificate from their commanding officer, examined and countersigned by his Majesty's fiscal, or the magistrate of the place to which it refers.

14. In any place, where the permission to retail Cape and foreign wines, malt and spirituous liquors, is obtainable by farming, or by a government license, no person shall retail any of those liquors, without such license; such person becoming liable to a fine, for the first infringement of this regulation, of 300 rds. to be divided,—one-third to the officer prosecuting, one-third to the farmer, (pachter,) and one-third to the informer; or in case of inability to pay, to arbitrary punishment: for the second offence, 500 rds. to be divided as above; or in case of inability to pay, to flogging in the prison by the constables; and for the third offence, to five years' banishment from the colony.

15. As, owing to the great extent of this colony, there are many parts to which, on account of their distance, and the thinness of the population, the obligation of taking out licenses for the retail of wine and brandy is not yet extended; it is hereby expressly declared, that until the government shall order to the contrary, in all such places for which no wine licenses are granted, the wine-growers shall be allowed to sell their wine and brandy on their estates, by small measure, without thereby being rendered liable to any fine or penalty, provided they report the same to the landdrost of the district to which they belong, annually, at the time of making their opgaaf; the said wine-growers are, however, restricted from establishing any tap or wine-house, beyond the limits of their estates; or to hawk their wine about the country, for the purpose of retailing it, on pain of being considered as smugglers, and incurring the fines and penalties specified in the foregoing article.

16. At the public letting or farming of the sale of Cape wines, brandies, &c. at Cape Town, the government grants to the highest bidder an exclusive license:

1. To tap and retail Cape wine.
2. To tap and retail Cape and foreign brandy, and other spirituous liquors.

Both these licenses extend to Cape Town, Salt River, Rondebosch, Wynberg, Muizenburg, Simon's Town, and all the intermediate parts, as expressed in the conditions of sale of these

farms, or such proportions thereof, as form the respective lots; as also to Stellenbosch, and all other places throughout the colony, to which the obligation of taking out licenses is either already, or may in future, be extended.

3. To tap and retail foreign wines and beers, which last license extends through the same limits as the two former, with the exception of Cape Town itself.

The contract to be formed between the government and the respective wine-farmers, is fixed by the terms of the respective lettings.

17. Government grants licenses without letting:

1. To tap and retail foreign wines and beer, in Cape Town, which licenses must be written on stamps of 200 rds.
2. To tap and retail Cape beer, which licenses must be written on stamps of 25 rds. and without which license, no persons, not even brewers, are allowed to retail Cape beer, in any part of the colony.

All such persons who shall, without having obtained either of the above specified licenses, be found to have retailed any of the liquors expressed in them, will be considered as smugglers, and as such, be subjected to the penalties stated in the 14th Article.

Government reserves to itself to grant the exclusive privilege of brewing Cape beer, both by farm or otherwise, and to make such arrangements therein as it shall deem expedient.

18. None but burghers of the colony shall obtain the licenses mentioned in the two preceding Articles. No wine-growers shall be allowed a license to tap and retail Cape and foreign wines, or spirituous liquors; and the wine-farmers, and those having obtained said licenses, are not allowed in anyways, directly or indirectly, to associate themselves with a wine-grower or wine-growers, or to transfer to them any part of their farm or license, on pain of each party becoming liable to a fine of 1000 rds. and any agreement existing between the farmer or holder of a license, and the grower shall, moreover, be deemed null and void.

19. The holders of the aforesaid licenses shall be allowed to sell the several liquors expressed in their licenses, in such places as shall best suit them, provided it be done with the concurrence of his Majesty's fiscal in Cape Town, or the landdrost or resident of the place, for which the license is granted.

The holders of licenses granted by public letting, shall have the right to open as many tap-houses as, by the conditions of the letting, shall have been determined; remaining, however, responsible for the conduct of the retailer, by them appointed: and the offenders against any of the regulations established by the present proclamation, or other existing laws, or against such as shall hereafter be established respecting the respective wine-farmers, and prescribed by the conditions of the letting, shall,

when these offences are committed by retailers, be, nevertheless, considered as if they had been committed by the farmers themselves, who shall for that reason also be held responsible for all confiscations and fines which, in consequence thereof, shall be incurred by their several retailers; retaining, nevertheless, the right of recovering against such of their retailers who, unknown to them, shall have thus offended; and who, as well as the farmers, shall be held responsible for the consequences thereof.

20. Moreover, the farmers of the licenses to retail Cape wines, brandy, and other spirituous liquors, are allowed the same right to sell Cape wine and brandy wholesale, as the privileged wine-sellers are allowed by their licenses.

21. The farmers, or other holders of licenses to retail, are exclusively permitted to retail the liquors expressed in their respective licenses, to the shipping within the limits of their license, and to send such liquor on board of ships, for the purpose of being there retailed; but all wholesale dealers, or licensed wine-sellers, are permitted to dispose of their liquors to shipping, either for consumption in the harbour, or for stock for the voyage, in the usual wholesale quantities.

22. No farmer (pachter) shall, however, be allowed to retail any liquors not expressed in his license, without having obtained permission to that effect from the farmer, (pachter,) whom it may concern, and with the knowledge of his Majesty's fiscal, landdrost, or resident of the place to which the license or farm refers.

No farmer (pachter) shall be allowed to sell, directly or indirectly, any wine or liquors at any other place than at his known public tap-houses, on pain, in both instances, of being considered as a smuggler, and as such of being punished according to the 14th Article of this Proclamation, in those cases in which the first part of this Article shall have been contravened, and of being liable to a penalty of 300 rds. and the confiscation of whatever wine and other liquors shall be found in such private tap-house, in such cases as contravene the second part of this Article.

23. When, and for so long as to promote order and the advantage of the military, it shall be thought expedient to allow canteens to be kept in the castle in Cape Town, in barracks, quarters, cantonments, or encampments, the farmers within whose limits such canteens shall be established, shall have the exclusive right to retail their liquors in the same; but they shall conform to all such limitations and military regulations, as for the preservation of order, and to prevent fraud, shall be deemed necessary; and the keepers of such canteens shall be obliged to buy the liquors sold in their canteens, exclusively of the farmers (pachters) aforesaid, on pain of being considered as smugglers,

and liable as such to punishment, according to the 14th Article of this Proclamation.

24. The farmers and other holders of licenses shall not sell, nor otherwise dispose of, any other than good and unadulterated liquors, either wholesale or retail; and in order rigorously to prevent any abuse herein, his Majesty's fiscal, the landdrost, or resident of the places where the wine stores, cellars, or tap-houses, belonging to the farmers, (pachters,) or other holders of licenses are, are hereby authorized to inspect the same, or cause them to be inspected; and such farmers and other holders of licenses, being found to have sold any deteriorated or adulterated wines, beer, or spirituous liquors, or to have sent such for sale to the retailers at any tap-house, cellar, or other public houses, shall, for each offence, be fined 150 rds., besides being liable to have the bad liquor immediately spilt, in the place where it shall be found, without any form of process.

25. All casks wherein wine, beer, or other liquors are kept for the supply of, or delivery to, the regimental or other military canteens, &c. shall be numbered, and half-a-bottle, together with the number of the cask, shall be sent when required to the office of the town-major in Cape Town, and in any district out of town, to such officer as shall be thereto authorized by the commanding officer of the regiment or detachment to which the canteen is attached, as often as may be thought necessary, to have the liquors in these canteens examined, by those qualified to do so; when, on finding that any of them be spoiled or adulterated, the holder of the license by whom such liquors have been delivered, shall be reported to his Majesty's fiscal, landdrost, or resident, to be dealt with as expressed in the foregoing article. But in case that after the information shall have been laid, it shall be considered by his Majesty's fiscal, landdrost, or resident, that said liquors are saleable, and not too bad to be retailed, by the holder of the license; and the town-major, or officer authorized to examine the said liquors, shall feel dissatisfied with this award, he shall address himself to me, or to the governor for the time being, to whose final decision, as to the good or bad quality of the said liquor, the parties shall be bound to submit, without any further form of process.

26. No gaming, either with cards, dice, or the like, shall be allowed in any of the licensed houses of the farmers (pachters), or other licensed holders, on pain of a fine of 50 rds. to be paid by the farmer or licensed holder; and the forfeiture of the money and other articles gambled for, independent of such other penalties as are established by law against gambling.

27. The farmer (pachter), and other license holder, shall not purchase or take in pawn any arms, tools, clothes, shirts, shoes, stockings, sheets, blankets, or in general, any necessary or sus-

pected article, brought by soldiers, sailors, Hottentots, free blacks, or slaves, and they shall not receive in payment for their liquor from such persons any thing but money, on pain of a fine of 200 rds. for the first offence; and for the second, of having the tap-house, where the offence has been committed, shut up; nor shall the farmer, or holder of the license, be allowed to open another tap-house in its stead; nor will the aforesaid penalties exempt the offender from any action to which he may have rendered himself liable, by purchasing, receiving in payment or in pawn, any article that may prove to have been stolen.

28. They shall not be allowed to harbour or conceal any soldiers, sailors, slaves, or apprenticed prize negroes; but, on the contrary, they shall be obliged to report to the nearest guard, every soldier or sailor, who shall be in any of their houses after 9 o'clock in the evening, and insist on remaining there; and to the nearest under-sheriff, or police-officer, they shall give information, in like cases, respecting any slaves or prize-negroes, on pain of a fine, in case of harbouring such persons, of 100 rds.; and, should such harbouring be proved to have been with intent to conceal such persons, to the further penalty of the forfeiture of the license.

29. All persons selling and retailing Cape and foreign wines, beer, and spirituous liquors, shall be obliged to have a sign or board at the outside of the house where such liquors are sold, on which shall be written, in legible characters, in English and in Dutch, what liquors are sold there, on pain of a fine of 100 rds. for the first offence, and for the second, of forfeiture of the license.

30. All holders of public lodging or eating houses, as also society houses, are obliged to purchase the liquors which they sell in their houses or societies of the farmer, or other licensed seller of such liquors, on pain of being punished as smugglers, according to the 14th Article of this proclamation: however, such persons are allowed to compromise with the respective farmers, and in case of disputes respecting the terms of such compromise, his Majesty's fiscal, the landdrost, or resident, at the place where such house or society is established, may, at the request of the farmer, or the holder of such house or society, after having heard both parties, submit for my approbation and decision, or for the approbation and decision of the governor for the time being, the sum which he considers a sufficient equivalent to the farmer, for the keeper of such house or society, being allowed to purchase the liquors included in the farmer's license elsewhere.

31. From the provisions of the preceding Article, are excepted the wine and other liquors, which the keeper of public lodging and eating houses and societies require for the consumption of their own families; wherefore, his Majesty's fiscal, the

landdrost, or resident, at the place where such houses are, is hereby authorized to fix the quantity of liquor deemed sufficient for their own use; which, however, is not to be done but with the knowledge and concurrence of the farmer whom it concerns, on pain of being considered as smugglers, and being punished as such, according to the 14th Article of this proclamation.

32. Whereas the retailing of wine and other liquors, included in the licenses of the farmers and other holders, is forbidden to all who are not in the possession of such licenses; so, in like manner, it is forbidden to purchase wine and liquors in retail, rom any other but such as are holders of said licenses or farmers, (pachters,) under the penalties expressed by the 14th Article of this proclamation.

33. And in order to prevent as much as possible any evasion of the foregoing regulation, no one shall be permitted to carry, or cause to be carried, in the streets, wine and other liquors comprised in the licenses, in less quantities than what is expressed by said licenses, on pain of a fine of 100 rds., unless the person detected can show, that the liquor found upon him comes from the farmer, or other licensed seller, and that it has not been purchased in a forbidden mode, or obtained by improper means; in case of inability to pay the fine imposed, the offender shall be subject to arbitrary punishment.

34. No licenses, obtained either by farm or otherwise, for the sale of wine, beer, and spirituous liquors, shall continue longer in force than for one year; but shall be renewed on the 1st day of September in each year, or on such other day as the government shall appoint.

35. The confiscations and fines directed by this proclamation are (in as far as no alteration has been made therein by these presents) to be shared in the customary manner.

36. The resident at Simon's Town, and the boards of landdrost and heemraden in the several districts of the colony, are authorized, with my approbation, or that of the governor for the time being, to make such further police regulations respecting the sale and tap of Cape and foreign wines, beer, and spirituous liquors, within their respective districts, as they shall think necessary; which regulations having been approved by me, or the governor for the time being, shall, in the usual manner, be promulgated in their respective districts, and be considered of equal force, as if included in this present proclamation.

37. The following proclamations and other laws, in as far as they are unaltered by these presents, or by the present enactment, are not cancelled, but remain in full force and effect, viz.:

a. The proclamation of the 26th August, 1801, as far as it relates to the duties on tonnage, (vatgeld,) according to ancient laws and customs.

b. The proclamation of the 29th August, 1804, respecting the annual farming of the sale and tap of Cape wines and brandy, &c.

c. The instructions for the wine taster, of the 10th January, 1812, together with all such other regulations as have any relation to the obligation on the part of the inhabitants, not to export wine from the colony, without having been examined and approved by or on behalf of the wine taster.

d. The proclamation of the 24th September, 1813, against the fraudulent use of fustage, condemned by the wine taster.

e. The proclamation of the 27th February, 1818, against mixing Cape wine with bad foreign wine, and the exportation of such foreign wines.

f. The proclamation of the 20th March, 1818, containing regulations respecting the measurement of fustage in which wine is kept here, the appointment of a gauger, and the fixing of the duty to be paid thereon.

g. And further, all such others relative to this subject, as by this present proclamation have not been cancelled or abrogated.

And that no person may plead ignorance hereof, this shall be published and affixed as usual.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 22d day of August, 1821.

(Signed) R. S. DONKIN.

By his excellency's command,

(Signed) C. BIRD, Sec.

APPENDIX H.

General Imports to the Cape of Good Hope, during the Year 1821.

	Rix-dollars.
Total custom-house valuation of British goods, being the prime cost, exclusive of all charges	3,778,440
Total custom-house valuation of British plantation goods, being the value thereof at this place . . .	13,890
Total custom-house valuation of foreign and East India goods, imported from Great Britain, being the value thereof at this place	576,590
Total custom-house valuation of foreign goods, from South America, being the value thereof at this place	2,191
	4,371,111

	Rix-dollars.
Amount brought forward	4,371,111
Total custom-house valuation of foreign and East India goods, imported from the eastward by private traders, being the value thereof at this place . .	1,254,360
Total custom-house valuation of East India goods from the eastward, by the Hon. East India Company, being the sale price thereof	291,466
Total custom-house valuation of foreign goods from the Netherlands, being the value thereof at this place	73,033
Total custom-house valuation of foreign goods from France, being the value thereof at this place . .	43,832
Total custom-house valuation of East India goods from the eastward, in foreign vessels, being the value thereof at this place	4,256
Total custom-house valuation of China goods in Portugueze vessels, being the sale price thereof .	22,164
Total Rix-dollars	6,060,222
Add 10 per cent. profit to be remitted . . .	606,022
	6,666,244

APPENDIX I.

RATE OF EXCHANGE.

To March, 1816 . .	85⅘	To June, 1819 . . .	112 1/15
June, 1816 . . .	88⅘	September, 1819 .	121⅓
September, 1816 .	92⅔	December, 1819 .	120½
December, 1816 .	107⅓	March, 1820 . .	123 5/12
March, 1817 . .	112⅜	June, 1820 . . .	122¾
June, 1817 . . .	120¼	September, 1820 .	131¼
September, 1817 .	133⅓	December, 1820 .	131 5/24
December, 1817 .	127 9/10	March, 1821 . .	132 3/24
March, 1818 . .	130½	September, 1821 .	161 7/24
June, 1818 . . .	131⅕	March, 1822 . .	174⅘
September, 1818 .	133⅛	April, 1822 . . .	185
December, 1818 .	121 7/16	May, 1822 . . .	195
March, 1819 . .	105 5/12		

APPENDIX K.

Annual Statement, showing the Value of the different Species of Produce and Merchandize, exported from Table Bay, Cape of Good Hope, between 1st January and 31st December, 1821.

Colonial Produce.		Rix-drs.
Aloes	55,800 lbs.	174,000
Argol	15,060 lbs.	1,960
Barilla	200 lbs.	100
Beer	228 gallons	185
Bone, whale	4,600 lbs.	450
Butter	76,540 lbs.	36,090
Cordials		700
Corn, Grain and Meal, viz.		
Barley	5,824 muids	42,010
Oats	2,123 muids	10,010
Wheat-flour	10,000 lbs.	2,000
Curiosities, natural		2,480
Elephant and sea-cow teeth	4,538 lbs.	8,350
Feathers, ostrich	2,495 lbs.	115,590
Firewood		290
Fruits, dried		16,945
Gum	1,690 lbs.	580
Hay	545,800 lbs.	21,370
Hides, horse and ox	2,732 ps.	14,830
Tanned		1,050
Horns, ox	3,010 ps.	270
Horses	196	56,980
Lime	2,495 half-aums	5,840
Mules	26	3,960
Oil, Seal	2,576 gallons	2,700
Whale	6,600 gallons	5,690
Onions	196 muids	1,010
Oxen	369	15,460
Poultry		2,450
Provisions, salted, viz.		
Beef		150
Mutton		460
Salt	3,538 muids	15,725
Sheep	2,728	14,120
	Carried up	573,805

COLONIAL PRODUCE.		Rix-drs.
	Brought up . . .	573,805
Skins, Calf	200 ps. . . .	200
Goat	10,208 ps. . . .	12,050
Seal	10,725 ps. . . .	15,920
Sheep	46,287 ps. . . .	23,225
Wild Beasts	87 ps. . . .	735
Stones		230
Vinegar	5,819 gallons . .	5,290
Wine, Constantia	3,867 gallons . .	39,430
of all other sorts . .	756,974 gallons .	1,056,170
Wool, sheep's	12,220 lbs. . . .	11,850
Wood, waggon		1,980
Zebra	1	150
	Total Rix-drs. .	1,741,035

Exports of Articles not Colonial Produce.

To England, in British vessels	17,140
St. Helena . . do.	28,430
South America and the West Indies, do. . .	39,440
the eastward . do.	142,215
New South Wales, do.	12,080
the Netherlands do.	27,350
the Netherlands, in Dutch vessels	2,045
Bourbon, in French vessels	2,390
Total Rix-drs. .	271,090

Total Colonial Produce	1,741,035
Total Not Colonial	271,090
Grand Total Rix-drs.	2,012,125

APPENDIX L.

(Copy.) Naval Yard, Simon's Town, 13th Dec. 1819.

SIR,

PURSUANT to your orders of the 15th ultimo, I beg to acquaint you I have proceeded and taken a trigonometrical survey of Hout Bay, a copy of which I send you herewith, by which

you will perceive it is a very flat and shallow bay, of no great capacity. No vessel of above sixteen feet draught of water can with safety lie land-locked. It is clear ground and good anchorage all over the bay; but from its exposure to S.W. and W.S.W. and the appearance of the pebble stones in the bight, I am of opinion, a very heavy swell rolls into the bay at times, in the winter season, and after a N.W. or westerly gale. It may afford great advantage to his Majesty's ships and vessels (or any others) bound to Simon's Bay, when they are caught to leeward by a S.E. wind, and cannot weather Cape Point, and the gale likely to continue. In such cases, I strongly recommend their running into Hout Bay, which may be entered with great facility from the southward, taking precaution not to borrow too near Chapman's Bay and Northook Point, to avoid the shoals, which run off some distance from the beach. It may also afford advantage to ships bound into Simon's Bay, and a N.W. gale (in particular circumstances, such as being short of provisions or water) blowing, and the appearance of its continuing. In such cases it might be proper and advisable to put into Hout Bay, till the gale was over, and the weather more favourable.

The south-easterly winds, during my stay there, appeared to blow steady in the entrance in a diagonal manner across the bay. It blew at times with great violence. With respect to other winds, I had very little opportunity of observing how they affected the entrance, as the wind was almost constantly blowing from the south-east on the south side of the bay. One day, when I understood from the fishermen it was northerly outside, it was light winds, variable, and calms, in the bay; and in the bight, where the buoy boat lay, it was in general very variable. When I came out, I found the wind at north outside, it was then blowing steady at north through the entrance.

There is a fine run of spring water in the bight, where the buoy boat lay, which is the most convenient place for watering a ship. The casks must be filled on the shore, rolled to the water, and rafted off. There are also several small springs of good water, near the fish huts, which might be collected into one body, and afford great facility in watering a ship. The casks will also, at the latter place, have to be rafted off.

I have the honour to be, &c. &c.

To Commissioner
Sir Jahl. Brenton, Bart.
K.C.B. &c. &c.

(Signed) J. GOODRIDGE.

APPENDIX M.

Extracts from a Letter written to Rear Admiral Robert Plampin, by Honourable Henry John Rous, Captain of H. M. Sloop Podargus:

(Copy.) His Majesty's Sloop Podargus,
St. Helena, 29th March, 1819.

"RETURNING from my cruize in search of Saxemburg, his Majesty's sloop Podargus ran into Hout Bay on the 1st January, 1819, in a heavy gale of wind from S.E. being short of water, and having split most of her sails and sprung her fore top-mast in an attempt to weather Cape Point.

With the exception of Saldanha, there is no harbour so commodious, safe, or that has so many advantages, as Hout Bay. Situated at the S.W. extreme, it presents a secure retreat to ships not able to weather Cape Point, in strong south-easterly winds, when they could not beat to the anchorage in Table Bay, and in the winter to ships exposed to north-westerly gales, when it would be impossible to work into False Bay, and they would not dare to attempt the anchorage on a lee shore in Table Bay.

Yet with this local superiority, situated in a rich and healthy part of the colony, with abundance of water, a large farm a mile distant, which supplies the navy contracts with beef and vegetables, and within fourteen miles of Cape Town, it is entirely neglected.

The harbour forms a basin about five or six miles in circumference, where, with moorings laid down, twenty sail of the line can be land-locked; from six to nine fathoms water, fine sandy bottom; high water at full and change at three o'clock; rise about six feet.

The entrance is remarkably fine and cannot be mistaken, deep water on either shore within a stone's throw. The patch of rocks in Captain Rous' plan is a mile and half farther to the westward; and about one mile from the shore, they are visible, quite out of the direction of ships approaching from the eastward, and may easily be avoided in running in from the westward, with a north-westerly wind.

I have no doubt that there is a good passage in shore of them. The other objection assigned is, that a heavy swell rolls into the land, with a south-westerly wind, but this swell cannot dangerously affect ships lying in a land-locked harbour, and south-west winds are seldom prevalent during any season at the Cape.

I presume to state my opinion, that Hout Bay, in every point of view, is the proper situation for our dock yard's establishment. Its great facility of ingress and egress, (which was exemplified soon after the Cape first fell into our possession, by a French frigate having run in, completed her water, obtained supplies of cattle and vegetables, and again made sail with impunity; in consequence of which, a fort and block-house were erected on the eastern shore, and a captain's guard of 130 men stationed there during the last war,) the short distance from Cape Town, both by sea and land, the superiority of the harbour, and rich country surrounding it, render it infinitely superior to Simon's Bay, which is exactly the reverse in all those leading points. Besides the difficulty of getting to Simon's Bay, either in the N.W. or S.E. gales, ships are liable to be detained three weeks by the latter; whereas at Hout Bay, the wind blows out of the harbour every morning at day-light.

When the numerous dangers in False Bay are considered, and the number of wrecks every year, in that and Table Bay, I cannot help regretting that this excellent harbour should remain useless, and that such an indifferent situation as Simon's Bay should be chosen for our naval arsenal."

APPENDIX N.

PROCLAMATION.

WHEREAS it has been deemed expedient, with a view to the prosperity of this settlement, that the language of the parent country should be more universally diffused, and that a period should be now fixed, at which the English language shall be exclusively used in all judicial and official acts, proceedings, and business, within the same. The long and familiar intercourse which has happily taken place between the good inhabitants of this colony, and the very numerous British-born subjects, who have established themselves, or have been settled here, has already greatly facilitated a measure which is likely still more closely to unite the loyal subjects of their common sovereign. The system which I had previously adopted, with a view to this exigence of employing British-born subjects, conversant in both languages, in the parochial duties of the reformed religion, as established in this colony, has likewise paved the way to the amelioration now contemplated.

It has pleased his Majesty most graciously to approve that measure, and to enable me to act more extensively upon it, not only by having commanded clergymen of the established church

of Scotland, (whose religious tenets are precisely similar to those of the reformed church of this country,) who have received instruction in the Dutch language in Holland, to be sent hither to be placed in the vacant churches, but by having authorized competent and respectable instructors being employed at public expense, at every principal place throughout the colony, for the purpose of facilitating the acquirement of the English language to all classes of society.

These teachers having now arrived, the moment appears favorable for giving full effect to his Majesty's commands; and I, therefore, hereby order and direct, by virtue of the power and authority in me vested, that the English language be exclusively used in all judicial acts and proceedings, either in the supreme or inferior courts of this colony, from the 1st day of January, of the year of our Lord one thousand eight hundred and twenty-seven; and that all official acts and documents of the several public offices of this government (the documents and records of the courts of justice excepted) be drawn up and promulgated in the English language, from and after the 1st day of January, one thousand eight hundred and twenty-five; and that all documents prepared and issued from the office of the chief secretary to this government, be prepared in the English language, from and after the 1st day of January next, in the year of our Lord one thousand eight hundred and twenty-three; from and after which periods, respectively, the English language shall, in such judicial and official acts and proceedings, be exclusively adopted.

And that no person may plead ignorance hereof, this shall be published and affixed in the usual manner.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 5th day of July, 1822.

(Signed) C. H. SOMERSET.

By command of his Excellency the Governor,

(Signed) C. BIRD, Secretary.

APPENDIX O.

PROCLAMATION.

By His Excellency the Right Hon. General Lord Charles Henry Somerset, one of His Majesty's Most Honourable Privy Council, Colonel of His Majesty's 1st West India Regiment, Governor and Commander in Chief of His Majesty's Castle, Town, and Settlement of the Cape of Good Hope, in South Africa, and of the Territories and Dependencies thereof, and Ordinary and Vice-Admiral of the same, Commander of the Forces, &c. &c. &c.

WHEREAS it has appeared to his Majesty's government that the laws in force in this colony, relating to testamentary dispositions of property, may, in their operation, defeat the expectations of those individuals who have emigrated, and become settlers within the jurisdiction of this government; and I have, in consequence thereof, received his Majesty's most gracious commands to make provision in the premises according to circumstances:—I do, therefore, in pursuance thereof, and by virtue of the authority in me vested, hereby make known, declare and order,—That it shall be hereafter considered lawful, regular, and of full force, for all residents and settlers in this colony of the Cape of Good Hope, being natural-born subjects of the United Kingdom of Great Britain and Ireland, to enjoy the same rights of devising their property, both real and personal, as they would be entitled to exercise under the laws and customs of England; provided, however, that in case any such natural born subject of the United Kingdom of Great Britain and Ireland shall enter into the marriage state within this settlement, without making a previous marriage settlement, (called in the colonial law term ante-nuptial contract) his property in such case, both real and personal, shall be administered and divided according to colonial law, notwithstanding any subsequent testamentary devise, unless such subsequent testamentary devise be made in conjunction with the wife of the party, according to the colonial law on this head.

And it is hereby further made known and ordered, that the original will or testament of any person dying in this colony, shall be deposited, as usual, in the orphan chamber, at Cape Town, in order to legalize the administration of the estate, by the executor or administrator thereof.

And I do hereby further order and direct the president, or acting president, of any of the matrimonial courts of this government, to explain clearly to every natural-born subject of the United Kingdom of Great Britain and Ireland, who shall be about to enter into matrimonial engagements, and appear for

that purpose before such court, the tenor of this my Proclamation; noting on their record their having so done, that no man may justly plead ignorance of this provision.

And in order still further to obviate the plea of not knowing the law on this head, I have caused this Proclamation to be published and affixed as usual, and to appear in three successive Gazettes.

GOD SAVE THE KING!

Given under my hand and seal, at the Cape of Good Hope, this 12th day of July, 1822.

(Signed) C. H. SOMERSET.

By command of his Excellency the Governor,

(Signed) C. BIRD, Secretary.

APPENDIX P.

Total List of CIVIL SERVANTS *of the Cape Colony: all of whom are paid from the Colonial Funds.*

Establishments paid in Sterling Money.

	£
Governor —	10,000
Private Secretary —	500
Aide-de-Camp, per day, 10s.	
Colonial Secretary —	3,500
Deputy ditto —	1,500
Judge V. Adm. Court	600
Auditor —	1,050
Collector of Customs —	1,000
Comptroller of Customs	1,000
Searcher —	700
Collector, Simon's Bay	700
Port Captain —	530
Widow Reyneveld (annuity)	500
Assessor Court of Appeals	500
Secretary —	480
Colonial Paymaster —	1,000
Chaplain —	700
Ditto, Simon's Town —	350
Commandant of ditto, per day, 10s.	
Commandant on the Frontier, 20s.	
Commandant, 20s.	
Superintendant of Fire Beacons, 10s.	
Agent to the Colony —	500
	£24,880

Colonial Office:

(Heads paid in Sterling Money.)

	Rds.
Assistant Colonial Secretary	3,000
Translator —	1,400
Head Clerk —	1,500
2 Clerks of 900 each	1,800
4 ——— 700 ———	2,800
2 ——— 500 ———	1,000
1 ——— —	480
	Rds. 11,980

Vaccine.

Director —	2,400
Two Vaccinators, 1200 each	2,400
Secretary —	500
	Rds. 5,300

Lombard Bank.

President —	6,000
Three Directors, 1,600 each	4,800
Book-keeper —	2,100
Cashier —	1,500
Clerk —	600

Discount Bank.

Cashier —	3,000
Carried up	18,000

Brought up	18,000
Accountant —	900
Assistant ditto —	800
Clerk —	600
Messenger —	480
Rds.	20,780

Stamp Office.

Commissioner and Collector, a per centage on the amount of stamps sold.

Court of Justice.

Chief Justice	9,000
Eight Members, 4,250 each	34,000
Secretary —	6,000
Surgeon —	1,000
English Secretary —	3,000
One Head Clerk —	2,000
Two Clerks —	1,100
Three ditto —	900
Rds.	57,000
Twenty-seven lower Officers	6,998
Total	Rds. 63,998

Auditor.

(Head Officer paid in Sterling.)

First Clerk —	1,200
Second ditto —	700
Rds.	1,900

Fiscal's Department.

Fiscal —	11,500
First Deputy ditto —	4,500
Second ditto —	3,000
First Clerk —	1,100
Second ditto —	700
Chief Executor —	1,200
Forty-four lower Officers	38,676
Rds.	60,676

Fiscal receives one-third of all fines and seizures.

Collector of Tithes Department.

Collector —	3,000
——— at Market —	600
Seven lower Officers —	2,000
Rds.	5,600

Inspector of Land.

Inspector —	5,000
Three lower-Officers	960
Rds.	5,960

Receiver General.

Receiver General —	4,000
First Clerk —	1,200
Second ditto —	900
Rds.	6,100

Slave Registry.

Inspector —	5,000
Assistant —	2,000
Head Clerk —	750
Four Clerks at 600 —	2,400
Messenger —	360
Rds.	10,510

Office for the Sale of Gunpowder.

On each pound sold for consumption, one schelling.

Vendue Office.

Commissary —	7,000
Assistant —	3,000
Book-keeper —	900
First Vendue Clerk —	900
Second and third ditto, 700	1,400
Fourth and fifth ditto, 500	1,000
Sixth ditto —	480
Two Ordinaries, 480 —	960
Messenger —	150
Rds.	15,790

Wine Taster.

Taster —	8,000
Book-keeper —	700
Gauger —	1,500
Rds.	8,200

Sequestrator.

Sequestrator —	4,000
Assistant and Cashier —	1,200
Head Clerk —	1,100
Book-keeper —	900
First and Second Clerk, 750	1,500
Third ditto —	600
Carried up —	9,300

Brought up	—	9,300
Messenger and Auctioneer		1,500
Second Messenger	—	610
		Rds. 11,410

Printer.

Superintendant	—	1,200
Book-keeper	—	500
Printer	—	1,200
First Compositor	—	840
Second and third, 720		1,440
Fourth and fifth, 600	—	1,200
Pressman	—	840
Messenger	—	240
		Rds. 7,460

Land Revenue.

Receiver	—	3,700
Assistant	—	1,000
Clerk	—	600
Messenger	—	240
		Rds. 5,540

Post Office.

Postmaster	—	5,000
Clerk	—	1,200
Two Letter-carriers, each 480		960
Two Post-riders, each 480		960
Twenty in all, including Post-masters in the country, at 500 and 300	—	4,800
		Rds. 12,920

Orphan Chamber.

President	—	4,000
Vice President	—	1,500
Four Members, 1000 each		4,000
Secretary	—	5,500
Book-keeper	—	4,000
Chief Clerk	—	1,000
First and second Clerks, 650 each	—	1,300
Third and fourth ditto, 600 each	—	1,200
Messenger and Auctioneer		1,500
Second ditto	—	240
		Rds. 24,240

Customs.

(Head Officers paid in Sterling.)

Collectors' First Clerk		1,200
Second ditto		900
Warehouse Keeper		1,800
Searcher's Clerk	—	1,200
Tide Surveyor	—	240
Five Tide Waiters, 720 each		3,600
Messenger	—	360
		Rds. 9,300
Comptrollers' First Clerk		1,200
Second ditto		900
		Rds. 11,400

Customs, Simon's Town.

(Collector paid in Sterling.)

Comptroller	—	2,000
Clerk	—	720
Collector's Clerk	—	1,000
Second ditto	—	720
		Rds. 4,440

Wharf Office, Cape Town.

Wharfmaster	—	3,500
Two Clerks, 720 each		1,440
		Rds. 4,940

Port Office, Cape Town.

(Head Officers paid in Sterling.)

Deputy Port Captain	—	1,260
Health Officer	—	600
Boatmen	—	2,640
		Rds. 4,500

Port Office, Simon's Town.

Harbour Master	—	2,000
Coxswain	—	420
Six Seamen, 300 each		1,800
		Rds. 4,220

Government Garden.

Superintendant	—	700
Overseer at Newland, 3s. sterling per day.		
——— at Camp's Bay		360
Carried up	—	1,060

Brought up —	1,060
Gardener —	660
——— at Newlands	540
Ploughman	144
Rds.	2,404

Government Slave Lodge.

Director —	1,800
Surgeon —	1,500
Porter —	192
Three Overseers, 192 each	576
Schoolmaster —	96
Rds	4,164

Two Schoolmasters for Christian Doctrine, 240 each	480
Four Boatmen, Algoa Bay, 360 each —	1,440
Agent of Somerset Farm	200
Surgeon of Health, Simon's Bay —	500
Schoolmaster, ditto —	200
Physician to the Governor's Household —	600
Instructor of Midwives	500
Commandant at Fort Frederic	1,200
Commandant at Robben Island, 10s. per day	
Waggon Master —	600
Overseer to Civil Offices	300
Bookbinder to Government	600
Overseer at Outaniqua Land	360
English Schoolmaster to Government Slaves —	360
Instructor to the Lepers	600
Rds.	7940

Burgher Senate.

President for three years	3,500
Three Members (no pay till they become Presidents by rotation)	
Auditor and Comptroller	3,000
Secretary —	2,500
Treasurer —	1,500
Head Clerk —	600
Second ditto —	480
Third ditto —	480
Fourth ditto —	360
Carried up —	12,420

Brought up	12,420
First Messenger —	480
Second ditto —	480
Town Overseer —	800
Assistant —	360
Overseer of Canals and Pumps	240
Officer of Health —	150
Late ditto —	150
Postmaster —	200
Messenger —	150
Secretary to the Town Engine Office —	150
Messenger to ditto —	60
Superannuated Pumpmaker	120
Overseer of the Town Negroes	180
Ditto of Town House —	120
Toll Man, (Sunday Toll)	150
Rds.	16,210

CAPE DISTRICT.

Landdrost —	4,500
Secretary —	2,000
Head Clerk —	600
Cashier of the Tolls —	360
First Clerk —	500
Second Clerk —	300
Inspector of Roads —	1,200
Messenger —	750
Under-Sheriff —	600
Six Police Riders, 300 each	1,800
Rds.	12,610

Stellenbosch, including 4,500 Rds. for the Landdrost	9,760

Swellendam and Caledon.

Landdrost —	4,500
Deputy ditto —	2,000
Secretary —	1,000
Deputy ditto —	600
Lower Officers —	8,004
Rds.	16,104

Tulbagh, Clanwilliam, and Worcester.

Landdrost, Tulbagh —	4,500
Deputy, Clanwilliam	2,000
Carried up —	6,500

Brought up	—	6,500
Deputy, Worcester	—	2,000
Lower Officers	—	9,640
		Rds. 18,140

George.

Landdrost	—	4,500
Secretary	—	1,000
Pilot at the Knysna	—	800
Coxswain	—	480
Six Rowers	—	2,160
Lower Officers	—	7,992
		Rds. 16,932

Graaf Reynet, Cradock, and Beaufort.

Landdrost, Graaf Reynet		4,500
Deputy, Cradock	—	2,000
Deputy, Beaufort	—	2,000
Minister	—	2,000
Three Field Commandos, at 300 each	—	900
Twenty-six Field Cornets, at 200 each	—	5,200
Lower Officers	—	15,969
		Rds. 32,569

Uitenhage.

One Field Commandant		300
Nine Field Cornets, 200 each		1,800
Other Officers	—	12,424
		Rds. 14,524

Bathurst.

Medical Officer	—	600
Four Field Cornets, 200 each		800
Other Officers	—	13,104
		Rds. 14,504

GOVERNMENT RESIDENCES.

Simon's Town.

Resident	—	3,000
First Clerk	—	600
Second Clerk	—	420
Carried up	—	4,020

Brought up	—	4,020
Messenger	—	240
Under-Sheriff	—	260
Three Constables, 420 each		1,260
Three Kaffres, 80 each		240
		Rds. 6,020

Saldanha Bay.

Resident	—	600
Coxswain	—	420
Four Boatmen	—	1,440
Two Signal Men	—	720
		Rds. 3,180

Mossel Bay.

Resident	—	600
Overseer	—	77
		Rds. 677

Plettenberg's Bay.

Resident	—	600
Labourers	—	144
Signal Men	—	144
		Rds. 888

Buck Bay.

Superintendant	—	500
Overseer	—	600
		Rds. 1,100

CLERGY.

Reformed Church.

First Minister	—	2,500
Second and Third ditto, 2,300 each	—	4,600
First Clerk	—	616½
Second ditto	—	286½
Organist	—	300
Sexton	—	234
		Rds. 8,537
Political Commissioner		Rds. 1,500
Lutheran Clergyman		Rds. 183

English Clergy.

(Colonial Chaplain paid in Sterling.)

Church Clerk	—	300
Sexton	—	350
Messenger	—	*50
		Rds. 700

Simon's Bay.

(Chaplain paid in Sterling.)

Clerk	—	150
Sexton	—	150
Bell Ringer	—	100
		Rds. 400

Stellenbosch.

Minister	—	2,000
Clerk	—	199
		Rds. 2,199

Paarl.

Minister	—	2,000
Clerk	—	240
		Rds. 2,240

Caledon.

Minister	—	2,000
Clerk	—	177½
		Rds. 2,177½

Minister at	George	2,000
	Swellendam	2,000
	Tulbagh	2,000
	Beaufort	2,000
	Uitenhage	2,000
	Graaf Reynet	2,000
	Somerset	2,000
	Clanwilliam	2,000
	Caffraria	1,000
Officiating Minister at Somerset	—	144*
		Rds. 17,144

Pensioners amount to Rds. 18,344

Allowances.

House to Secretary	—	2,000
——— Landdrost, Cape		600
——— Messenger, Colonial Office	—	400
		Rds. 3,000

APPENDIX Q.

The Number of Houses in Cape Town is 1478.

The Number of Inhabitants in CAPE TOWN.

CHRISTIANS.....	Men above 16 years of age	2,276	
	Women do.	1,924	
	Sons under 16	1,695	
	Daughters above 25 . .	129	
	Do. under 25 . .	1,979	
			8,003
FREE BLACKS..	Men above 16 years . .	460	
	Women do. . . .	537	
	Sons under 16 do. . . .	370	
	Daughters above 25 do. .	12	
	Do. under 25 do. .	379	
			1,758
APPRENTICES...	Male above 16 years . .	363	
	Do. under 16 do. . . .	96	
	Female above 12 do. . .	197	
	Do. under 12 do. . .	109	
			765
HOTTENTOTS....	Male above 16 years . .	110	
	Do. under 16 do. . . .	89	
	Female above 12 do. . .	172	
	Do. under 12 do. . .	91	
			362
SLAVES.....	Male above 16 years . .	2,833	
	Do. under 16 do. . . .	1,566	
	Female above 12 do. . .	1,922	
	Do. under 12 do. . .	1,213	
			7,534
	Total		18,422

Number of Inhabitants and Deaths in the CAPE DISTRICT *(exclusive of Cape Town), Year* 1821.

		Deaths.
Men	766	11
Women	558	9
Sons	541	7
Daughters	595	4
Servants	94	..
	2,554	31

			Deaths.
Number, &c. brought forward.	.	2,554	31
Hottentots	above 16 years	252	9
Female do.	14	227	7
Hottentots	under 16	200	..
Female do.	14	158	..
Prize Negroes	above 16	245	4
Do.	under 16	37	3
Prize Negroes	above 14	43	1
Do.	under 14	31	..
Male Slaves	above 16	1,896	50
Do.	under 16	474	..
Female do.	above 14	658	41
Do.	under 14	498	..
Total	. . .	7,273	146

TOTAL INHABITANTS—In Cape Town	.	18,422
Cape District	.	7,273
		25,695

APPENDIX R.

MEMORANDA.

A legger of wine contains . . 152 gallons.
An half-aum (aam) . , . . 19 do.

The Cape-Dutch hundred of pounds are 108¼ English pounds, avoirdupois.

The Cape paper-money consists in stivers.
6 stivers . . . . 1 skelling
8 skellings . . . 1 rix-dollar.

The old original English penny-pieces are current for two stivers.—Those of modern date, and halfpence, are not current at any price.

The Rhinland foot is the measure used at the Cape. If an English foot be divided into 1000 parts, it requires 1033 for a Rhinland foot.

NOTES

BY THE EDITOR.

I.

PAPER CURRENCY.—See p. 35.

The depreciation of the paper-currency of the Cape, at the inordinate pitch of degradation to which it has sunk, is an evil of the utmost magnitude, pregnant with ruin of domestic traffic and of foreign commerce of the colony. It unhinges all dealings that look beyond the passing day; for no man, who enters into prospective engagements, can, with any semblance of probability, foresee what value he may have to receive or to pay on their fulfilment.

Debtors are, by such enormous reduction of the currency, enabled to liquidate their debts with less than half the real amount which they borrowed; and in the uncertainty attending a fluctuating value, apprehensions are entertained of the contrary result. Persons contracting engagements to be performed at a distant term, may fear, and actually do so, that they shall have to account at a future day for more than twice the value received by them.

Long credit, or loan at a distant term, upon real securities or substantial sureties, has been an ordinary mode of dealing at the Cape; it is yet clung to, amidst the distress of the colony, but the condition of the colonial currency has seriously shaken it.

The degradation of its paper has been progressive, since the unhappy measure of augmenting the quantity of it. Already the currency overabounded, as was evinced by the price of bullion, and ordinary rate of foreign exchange, which demonstrated depreciation, varying from 20 to 30 per cent. when, in an ill moment, the local government was induced, on very mistaken grounds, to resolve on its augmentation, while its diminution

should, on the contrary, have been determined. This measure, injudiciously begun by one administration, and unwisely completed by another, remains yet unamended by their successors.

From that time the local currency has proceeded in an unvaried course of rapid depreciation, which is now come to the enormous length of 180 per cent. premium; that is, paper-money now exchanges for no more than 35 per cent. of the value for which it was issued.

There is nothing in prospect to check its further degradation, until it shall have sunk to the condition of decried paper. Those who suffer by its deplorable condition, have no voice for the application of a suitable remedy to this galling evil; and those from whom the remedy must come, are no sufferers by the continuance of it. In this remark no reflection is intended. Expedient measures for alleviation of an acknowledged evil, have doubtless been subjects of deliberation; but sympathy, and a consequent keen sense of inconvenience, would be prompt to find and apply a remedy for its relief.

The first step requisite is to ascertain the cause; and from this point a question arises, whether the proximate cause be one remediable by measures proper to be adopted by authority; or whether the grounds of the evil are to be sought further, and remedies deeper?

The proximate cause of depreciation of the local currency is, no doubt, excess of importation. The goods imported exceed the means of payment—a situation not unusual in a British colony. The Cape, indeed, like any other country, can purchase no more than it can pay for, or only so much more as its credit covers. It does receive, or has received, more than the value of exports which it can furnish in return. The importing merchant has been content to allow credit to a limited extent. His merchandise has been vended for his account, at a seeming profit, and apparent payment has been received in currency: but he has found, that he has an ineffective payment in paper-money, not adequately convertible into competent returns of goods for export, or bills of exchange for remittance. Paper-money, accumulated in the hands of such persons eager to effect remittances, is depreciated by their competition. Much remains with disappointed competitors; and lying unproductive in their hands, occasions deeper degradation of the currency, from their quickened eagerness to accomplish a remittance of their funds. Yet the traffic of importation proceeds, under the illusion of seeming gain: for fresh imports are sold at advanced prices, affording a nominal profit, according to the present rate of exchange; and further degradation is naturally the result, before returns may be effected, since the same course can but be followed by like consequences.

Upon this view, were it proposed to discourage importation and fetter commerce, or to promote trade and encourage the growth of exportable produce, the answer would be, that the latter is highly expedient, but tardy; and the former is impracticable, or unadvisable. We must look then further to a primary cause, susceptible of some prompt remedial application.

The paper-currency, as already intimated, overabounds. It was issued in excess, under a mistaken view of the interests of the colony; and, although the population of South Africa has since increased, and plantations have been widely extended, the paper-money then created and put forth, still continues to be greatly in excess above the wants of circulation.

This truth is proved by two very decisive facts, independently of the presumption arising from the price of bullion, and rate of exchange. Those facts show, conclusively, that the greatest part of the paper-money is actually not in circulation, but set apart, and laid by in public or private coffers. The deposits in the bank commonly amount to more than one-third of the whole quantity of paper-money; they are deposits of individuals, withdrawn from circulation. Much more than that proportion—more than two-thirds of the total amount, consist of notes of a large denomination—larger than are suited to the purposes of a circulating medium, and larger than are ever actually seen in currency; the paper-money is chiefly in notes of 500 rds.

Much currency is not needed at the Cape. Most transactions of magnitude in the town are liquidated by bank drafts. Supplies from the country to the town (cattle, for example) are generally paid for by drafts. Country dealings very usually consist in barter; no wonder then that so great a sum as three millions of rix-dollars should have been an over-issue of paper, and should continue to be excessive. The surplus is a dead burden upon capital; else not superabundant, and very ill able to comport with the unproductiveness of so considerable portion of it.

The effect of an over-issue of paper-money, in rendering too great a portion of capital thus unprofitable, has weighed the heavier, in consequence of a measure that was adopted shortly afterwards; the discontinuance of an accommodation which previously was afforded, of allowing interest on deposits at the public bank.

A prudent consideration for the safety of the bank, and of the government, which was answerable for its transactions, dictated that measure. The business of the bank, in respect of employing deposits, was, perhaps, conducted upon not right banking principles. The bank, in using that money, has been said to have been managed rather as a charitable institution than as a money-dealing fund. Want was a better title to early attention than opulence. The needy applicant more readily obtained relief

by loan, than the wealthy applicant, accommodation. If humane feelings are to be chiefly consulted in money-lending, this was right; but not so, if the security of a great public establishment was to be a paramount consideration. A better mode of management might, perhaps, have been introduced; but a short course was taken, and the whole system was discontinued.

For want of means, by which capital, awaiting permanent investment, or reserved for a special destination, can be made temporarily profitable, none accumulates in South Africa. Facility of rendering sums, great and small, productive, operates, wherever it exists, as an incentive to frugality, and becomes the occasion of accumulating capital. There is no public fund, nor institution at the Cape, affording such means, and for that reason there is no capital saved, or there is none retained.

Owing to the same want of public securities, is that extreme urgency for mercantile remittances, with the consequent perpetual pressure upon exchanges, which has been noticed. If capital, awaiting remittance, may meantime be securely and advantageously employed, without foregoing the prompt command of it, remitters may be content to expect a favourable turn in the rates of exchange. But if money is to lie idle while it remains unremitted, a present definite loss is submitted to, sooner than keep it unemployed, watching for doubtful contingencies.

Every one who receives a fixed income, whether from public salary, or from individual resources, is a sufferer by the degradation of the currency. The government itself is a loser, since its land revenue (as well as certain other branches of the colonial resources) becomes less efficient to defray the public charges. Prices of all things are enhanced; salaries of office become inadequate, and must be increased; every expense is augmented. The government draws some direct benefit from the paper-currency, through the Lombard bank; but this profit, arising from interest upon so much of the paper-money as has been issued by way of loan through the bank, falls very short of the loss sustained. The aggregate of the revenues received in a degraded currency does not go nearly so far as it would, divested of that profit, and levied wholly in a currency of reinstated value.

Interest, derived on paper-money created for loans on mortgage, might be an unexceptionable source of benefit to the government, while paper so issued bore no discount, or very little. But it is not a fit advantage to be retained, while attended with so serious an evil as a decried currency: for such is paper-money, which has sunk to a discount of 65 per cent.

The same may be said of that portion which was framed and issued for disbursements of the British government on account of the public service; for instance, the amount applied to the construction of public buildings, and created for that very purpose.

The advantage of raising money, by contracting a debt free of interest, to defray works of general utility or of colonial service, was unobjectionable, so long as it entailed no inconvenience. But whenever the paper issued for such occasions fell to discount, inconvenience had then arisen, and the longer continuance of the debt became seriously objectionable. It should be remembered, that creation of paper-money by a government is a mode of borrowing *without* consent of lenders. Certainly that should not be persisted in *against* consent; and great depreciation surely is a very strongly pronounced *dissent*. The amount ought to have been withdrawn, and other means fallen upon to provide for the exigence.

For so much of the colonial paper-money, as was a debt of the Dutch government of the Cape of Good Hope, the British government must be considered to have succeeded to its engagements. Great Britain, it may be said, is not answerable for that debt, as bearing on other funds and resources, more especially since the state has already paid once what was framed and issued for the public service of the British government, previous to the restoration of the Cape to the Dutch. Yet the debt must be acknowledged as a burden on the territorial revenue of the Cape; and Great Britain, possessing the colony, is responsible to see its debt made good. In any view it is an incumbrance upon the colony; and having become sorely inconvenient in one form, not to say utterly incompatible with prosperity, it might be put at least into some other shape less detrimental; and the charge of effecting so beneficial a change may be very properly defrayed out of colonial resources.

Upon these considerations it is suggested, that so much of the paper-money outstanding as exceeds the wants of circulation, ought to be withdrawn; and for this purpose debentures, bearing legal interest of the colony, might be issued in exchange for it, upon application and surrender of an equal amount of paper-money to be cancelled.

The fund for paying the interest of debentures would, in the first instance, be that which is received through the Lombard bank, for loans of paper-money, issued on real securities. That fund would nearly suffice. A reduction of the excessive quantity of paper-money is the appropriate remedy of its depreciation; but there is no positive necessity to call in the whole of it.

Paper-currency, kept within due bounds, is expedient, and perhaps requisite, in a small colony, where importation inevitably equals, often surpasses, and always manifests a tendency to exceed, the means of making returns by exports.

There can be no doubt, that debentures would be taken for a great part of the outstanding paper, and not unlikely for the precise amount, which is surplus to the wants of circulation, and is laid up in the coffers of the bank, and of private persons.

No apprehension need be entertained, that the whole amount of paper-money will be exchanged for debentures; and that an incommodious want of a medium of circulation will, in consequence, be experienced. Were the case to happen, of the whole paper-money being brought in to be cancelled, the operation could not be so suddenly performed, but that the paper would be seasonably replaced by a metallic currency of Spanish dollars and other coins, passing in countries which have dealings with the Cape.

Without entertaining any fear upon this score, it may be proposed upon other grounds, that the plan of issuing debentures should include a provision for the re-issue of paper-money in exchange of debentures, upon application for that purpose, and surrender of the equivalent amount. In short, the scheme suggested is to make paper-money and debentures interchangeable at the option of the holders of either.

The effect, as is presumed, would be, that whenever currency superabounded, the surplus, above the wants of circulation, would be brought to the treasury to be exchanged for debentures; and, whenever currency was wanting, and the quantity in circulation was deficient, debentures would come in to be exchanged for paper-money. Matters would thus regulate themselves: no more of it would remain in circulation than is wanted—no more would be withdrawn from it than can be spared.

II.

VENDITIE.—See pp. 42, 44, 77, and 104.

A FRIEND, purposing to attend a public sale in a remote part of Zwartland, invited me to accompany him. I availed myself of this opportunity to see the humours of a *venditie*. An auction in the country is an important event for the vicinage. It furnishes, what is there extremely rare, a cheerful pastime. A wedding and an auction are the only occasions of lively assemblage. The resort of boers, with their families, from the neighbourhood, is general; from distant places, frequent. The ladies repair to the *venditie*, dressed as for a gay assembly. The men resort to it as they would to a fair or a country wake. In the present instance, people flocked to the sale from a distance of two and three days journey. The visitors are received as guests: a public dinner is given; and if the sale be prolonged to the following day, a supper too; and again a public dinner on the morrow. Meantime, wine without stint is poured forth to all comers, from morning till night. So much is hospitable entertainment expected at a *venditie*, that

for a sale of few articles or little value, when no such feast is meant to be given, the notice of sale includes an intimation of the omission: "No dinner will be given, but a good glass of wine."

The scene of a *venditie* is not unlike a country fair, and reminds a spectator of many a picture from the Flemish school. Merry revellers grouped in one quarter; sots lying drunk in another: busy dealers trafficking in one place: the auctioneer perched upon his waggon, slowly vending the tardy lots: vehicles of divers kinds around: cattle, implements, utensils, the subjects of sale, scattered about. At a South African sale, a variety of dress and figure, countenances and complexions, adds to the diversity of a scene, to which Dutch and Negro, Hottentots and Malay, equally contribute.

The land-boer, at whose house this sale took place, had not long before made a similar one, to effect a distribution of property between him and his children, upon the decease of his wife; for in virtue of community of property between husband and wife under the Dutch law, the demise of one involves dissolution of partnership, and consequent partition of effects in favour of the heirs of the deceased: an impolitic law, as it concerns land. The occasion of the present sale was disgust taken by the boer, at a complaint having been entertained against him, as preferred by one of his slaves, for alleged ill usage. It was dismissed on trial, and the slave punished for a groundless and frivolous complaint: but the old boer was so indignant at having been rendered amenable to a court at the instance of his slave, that he determined to relinquish his farm to his sons, and retire from active occupation. In consequence of this resolution, the sale took place, and was little more than nominal, as every valuable article was bought in or withdrawn, to the no small disappointment of those who did not, like myself, come to be merely spectators.

The old boer was in person an apt specimen of the ancient colonists of South Africa. Very tall and very corpulent, he but just passed through the ample doors of his dwelling. Supported by his staff, he slowly stalked about, scattering his surly responses. In this last respect he differs from his countrymen; who, in general, phlegmatic as no doubt they are, yet are affable, good-tempered, and not devoid of genuine but coarse humour.

My saddle horse having fallen lame, I was obliged to remain with my fellow traveller, sharing his travelling waggon, so long as the objects of his journey detained him; which included a visit to another *venditie*, two days afterwards, in the vicinity of Riebeck's Kasteel, a hill, which, with the district bearing its name, I was not sorry to explore. The sale taking place for quite a different reason from the former, (namely, liquidation of debts,) was less the scene of jollity and frolic, and had more the air of

an assemblage on business. Perhaps, difference of weather, in the one instance rainy, in the other sultry, contributed to the diversity of the scenes, and different tone of them.

I here witnessed, for the first time, an auction of slaves in South Africa. It is conducted somewhat differently from a sale of negroes in Brasil, and from that of domestic slaves in the East Indies, in both which countries I have been present at this touching scene. Many of the slaves, both among those who were to be sold, and among those who were reserved, appeared to be deeply affected by the approaching separation from friends with whom they had long shared servitude. Several were bathed in tears; others lamented aloud.

The subject exposed for sale is placed upon a table, for more convenient view; not handled and closely inspected as at a sale of imported negroes in South America, but interrogated as to qualification and blemishes. Upon such occasions, coarse jokes are not unfrequent, and greatly add to the disgust which the scene cannot but excite, in a mind endowed with sensibility. In the present instance, there was little that passed of this nature. The sale proceeded gravely and simply, as a mere affair of business. A woman, with four young children, was the most remarkable lot: and scarcely had the sale been concluded, when a profit on the lot was offered to the purchaser, and accepted by him. Female slaves fetch relatively high prices, because their future offspring is bought with them. The acquisition of a male slave is a life interest; that of a female is considered to be a perpetual heritage. This expectation will, it is hoped, be disappointed. That some modification of slavery, in this respect, may soon take place, is devoutly to be wished. The future offspring of female slaves ought to be declared, by prospective legislation, free; subject only to an apprenticeship, sufficient to remunerate amply the owners of the female slave, for bringing up her children, until they shall become of an age to render profitable service.

The price of slaves in South Africa has fallen somewhat, within a few years past. Shortly after the abolition of the Slave Trade, it advanced greatly: as was the natural result of a diminished supply and continued demand.

The proportion of male to female slaves, at that time, was nearly two to one, or more nearly nineteen to ten. The proportion of full grown slaves to children at a somewhat early period, was about three to one. A considerable time would necessarily elapse, before this disproportion of male to female, and of grown persons to children, would disappear. Meanwhile, the number of labouring slaves must be in progress of diminution, while the total number increased: and the value of a slave in prime of life could not but advance accordingly. Official returns show that the number of male slaves has been barely kept up by propagation,

while that of females has yearly increased; and it appears from the registry of slaves, that the increase, or excess of births above deaths, of male slaves, now is little more than one per cent. while that of females amounts to two and a half per cent. The mean, which is fifteen per mille, aided by accession of free labourers, is sufficient to face the demand on labour and keep down the prices.

III.

RELIGIOUS INSTRUCTION OF SLAVES AND HOTTENTOTS.—See p. 76.

MUHAMMEDANISM is said to be gaining ground among the slaves and free people of colour at the Cape: that is to say, more converts among negroes, and blacks of every description, are made from Paganism to the Musleman, than to the Christian religion; notwithstanding the zealous exertions of pious missionaries. One cause of this perversion is asserted to be a marked disinclination of slave-owners to allow their slaves to be baptized; arising from some erroneous notions, or overcharged apprehensions, of the rights which a baptized slave acquires. Slaves certainly are impressed with the idea, that such a disinclination subsists; and it is not an unfrequent answer of a slave, when asked his motives for turning *Musleman*, that "some religion he must have, and he is not allowed to turn Christian."

Prejudices in this respect are wearing away; and less discouragement is now given to the conversion of slaves than heretofore. Masters, it is affirmed, begin to find that their slaves serve not the worse for instruction received in religious duties. Missionaries, who devote themselves especially to the religious instruction of slaves, (and there is one in each of the principal towns,) have increasing congregations, and hope that their labours are not unfruitful. But the Musleman priest, with less exertion, has a greater flock.

Considered with reference solely to temporal views, the prevalence of Muhammedanism among the slaves of Christian masters, must be deemed a political evil. The difference of colour furnishes already but too broad a line of distinction. Add the difference of religion, and the line of demarcation becomes yet wider and deeper. A hostile feeling, nursed by religious animosity, may excite the slave against the master; and the colonist of South Africa may, ere long, find himself (as the earlier colonists did amidst newly imported slaves) surrounded by domestic foes.

On the other hand, it is made a question, still with reference to worldly considerations only, whether the Muhammedan slave

make not a better servant than the Christian. His sobriety, as is affirmed, makes amends for some ill habits attendant on Muhammedanism. Christians, slaves as freemen, blacks no less than whites, are, it is lamentable to say, drunken.

Missionaries of all sects, in their establishments, where they have assembled Hottentots to civilize and instruct them, have wisely followed the example of the earlier Moravian missions, in making lessons of industry go hand in hand with religious instruction. I am led to think, that they have improved upon that model. In the vicinity of a Moravian mission, there is not much benefit observed to flow from that institution. Within its limit, a certain degree of industry exists, sufficient to provide for few and simple wants. The Hottentots, residing there, work just enough for their support. But the village furnishes no artisans to the neighbourhood; no day-labourers; scarcely any servants. At the Protestant missionary stations, more instances are to be found of acquired wealth among the Hottentots; more refined wants; more persevering industry for the gratification of them. In civilization, the Moravian Hottentots make no advance beyond the first step: they are stationary. The others exhibit manifest progress; and an useful class of artisans is rising up among them.

Beyond the proper limits of the colony, the labours of the Protestant missionaries have been yet more conspicuously beneficial than within its boundary. Missionary stations have grown into villages, not to say towns; (for instance, Klaar-fontein or Griquatown;) where agriculture is thriving. Amity has been established in solitudes, where private warfare alone raged. Even the lonely bushman appears to be reclaimed, and resorts to the haunts of men. This change has, no doubt, been brought about partly by the silent operation of mere forbearance, since the colonists upon the frontier have been effectually restrained from hunting down the bushmen, to slay them in the thicket; and partly by the direct effect of the missionaries' exertions, to soothe and familiarize them. Thus domesticated, they are become, and are becoming, servants of colonists, whose flocks and herds are pastured near the frontier.

The whole tract between the declared boundaries of the colony of the Cape and the great Orange River, is fast becoming a dependency of the Cape, without being formally included in its domain. It is an arid region, and no valuable acquisition to the colony of South Africa. Such as it is, however, it will at no distant time become an accession of territory, which will probably extend the colonial limits to the Orange River, and make this the boundary; which, it must be confessed in its present circumstances, is the natural one.

IV.

RESOURCES.—See p. 94.

It is at all times with the utmost deference for the author's ampler knowledge, derived from long acquaintance with South Africa, that I intimate any dissent from his opinion. I cannot, however, think quite so ill of the future prospect and resources of the Cape, as the text seems to express.

Though good soil, well situated, is there scarce, comparatively with the prevalent barren rock of mountainous ranges, the sand and gravel of downs and heaths, and sterile ground rendered so by situation, notwithstanding its natural fertility, as the elevated arid plains of the Karroo; yet there is still much good corn-land on either side of the great chain of mountains; both in the western districts, which are esteemed the granary of the old colony; and within the chain of mountains, or beyond it, where difficulty of transport has opposed obstacles, not however to be considered as utterly insurmountable.

To any person who has viewed the more arid countries of Asia, whether Arabia or Western India, or the less arid of the south of Europe, and has likewise visited South Africa, it is apparent, that the colony of the Cape is yet unprovided with suitable means of transport for internal traffic. It has not the appropriate beast of burden. The ox seems ill adapted to the purpose for which it is there employed. The mule or the camel would most likely be preferable. The ox is sluggish and suffers much by heat and drought. The mule is hardy, and capable of much labour, with scanty and coarse fare. Still more so the camel, which is the fittest of animals for arid countries in hot climates.

When the mule shall have become common, or perhaps when the camel shall have been introduced and become so, Cape Town, and any other town which may have advanced in populousness, will draw ampler supplies than at present, with greater facility, from remoter stations; from places where the husbandman now restricts his agricultural exertions to raise barely enough for the use of his family, because a surplus would not defray the charge of transport to a distant market. With better means of conveyance of his produce, with camels as carriage cattle, or with mules for draught or burden, he will have the opportunity of profitably sending a surplus production from the arable of his farm to a remote mart.

It is much to be wished, therefore, that the fostering hand of government should be stretched forth, to accomplish the introduction of a breeding stock of camels, from India or from Arabia; and likewise of Arabian or Spanish asses. The difficulties in the way of their introduction are not to be overcome in present cir-

cumstances, by unaided enterprize of individuals, but would be light, and would be easily surmounted, were the matter undertaken under the auspices of the government.

Arid countries, such as South Africa, are peculiarly favourable to the breed of asses, as of horses; and no doubt can be entertained, that, with very little encouragement, the Cape may soon possess an approved breed of both animals, and not only become sufficiently stocked with mules, but at an early period export instead of importing them.

Among objects of agricultural industry, for neglect of which the planters at the Cape are reproached, as not having made sufficient trial of them, most of those which the author has noticed, in vindicating the Cape-boers from that imputation, are certainly unpromising. For some, the soil is unsuited; for others, the climate: the winter is too severe for certain productions, or the summer is too dry. Yet there are many objects, not comprehended in that enumeration, which are more promising, and of which no sufficient trial appears to have been made. The olive is, perhaps, in that predicament; the cork tree likewise; and most likely the date. They are productions of soil and climate analogous to South Africa, especially the cork and the date.

Not improbably the silk worm might thrive; possibly the cochineal, or else the kermes, or the lac insect. Bee-hives might be profitable for their wax.

The tea-plant should be attempted, for the Cape has been repeatedly named by judicious writers,* as a place where it is likely to succeed. The districts of China, in which the tea-plant is successfully cultivated, lie between the latitudes 25° and 35°; the situations best adapted to it are hilly, and even mountainous; the soil is gravel, derived from disintegrated granite.

The culture of alkaline plants for barilla is evidently indicated by soil, situation and climate.

A list of subjects for experiment, which offer a reasonable presumption of an advantageous result, might be easily enlarged, with reasons for entertaining expectations of success, if a fair trial is made in South Africa. But it suffices to state, as a general position, that vegetable productions of temperate and warm climates, may be expected to succeed at the Cape, provided the known habitudes of the plants are not incompatible with drought in summer, or wet weather in the cold season. The various productions of cooler climates here constitute a winter crop; those of hotter climates, a summer one: but since drought prevails in the hot season, and winter is the time of the rains, those tropical plants, which need much moisture, cannot be expected to succeed in the one; nor such productions of cold climates, as fear it, in the other.

* Charpentier Cossigny, p. 64. Clarke Abel, p. 223. and others.

A botanical and horticultural establishment at the Cape of Good Hope would be of the utmost utility, if instituted for practical no less than scientific purposes; to advance the science of botany and the art of horticulture, and, at the same time, to serve as a nursery for the introduction and propagation of exotics, and dissemination of useful plants, in South Africa.

From a garden established and maintained with such views, or through the facilities which the superintendant of it might and should afford, the agriculturist would obtain seeds of new varieties of every sort of corn, with various other objects of field culture familiar to temperate climates, or even warmer or colder countries. The horticulturist would be furnished with seeds and stocks of fruit trees, culinary vegetables, and ornamental plants, from every quarter, likely to thrive at the Cape. The planter would be supplied with young timber, or other useful plants or seeds, for his woods and coppice. Much is yet to be learnt at the Cape in regard to gardening, planting and agriculture. Profitable fruits, yet unknown there, may be advantageously introduced in a climate unquestionably favourable to the production of fruit. Green and dry fodder of all kinds, yet untried and unthought of, may be brought into use where fodder for cattle is so much wanted as it there is. Varieties of corn, less affected by irregularity of season than those which are now cultivated, may be beneficially propagated.

Small trials might be made, upon the result of which larger experiments might be advised, and seed could be furnished for that purpose: whence useful objects would gradually gain attention of cultivators.

Here the tea plant, which Mr. Clarke Abel, recently after visiting the interior of China, judged likely to thrive at the Cape, might be tried; and, as at Brazil, the probable success of the experiment might be promoted by assistance of a few Chinese, accustomed to the culture of tea. Here the white mulberry, and upon it the silk-worm, might be nursed: persons conversant with the management of silk-worms being purposely provided as instructors, either from China, from Bengal, or from the south of Europe. Such undertakings are beyond the reach of individual enterprize, and can only be attempted with the aid, or under the patronage, of the government.

Under such superintendence, and with the protection and assistance of the government, the ricinus with its silk-worm from the north-east of Bengal, may be tried; the cactus opuntia, with the cochineal, from South America; the quercus coccifera, with the kermes, from the Levant; quercus suber, from Spain or the south-west of France; the phœnix dactylifera, from Arabia. New varieties of grapes and of olives may be introduced. Dying

drugs of various sorts, from divers countries; medicinal plants from different climates; alkaline plants fit to be cultivated for barilla; vegetable productions of every kind, adapted for local use, or capable of becoming objects of export, may be disseminated.

The whole expense of such a botanical establishment and nursery of plants need not be great. It would be repaid ten thousand fold, by the public benefits which would flow from the institution.

V.

POPULATION OF THE CAPE OF GOOD HOPE.

See p. 107.

The population of the colony of the Cape of Good Hope was estimated by Mr. Barrow,* on the authority of official returns, in 1798, at 61,947 persons. It now amounts to nearly double that number; and the progress has been as follows:—

1798.	1806.	1810.	1814.	1819.	1821.	1821. corrected.	1822. estimated.
61,947	75,145	81,122	84,069	99,026	113,903†	[116,044]	120,000

The number of free Hottentots not being correctly ascertained, was stated, upon a rather vague estimate, in 1798, at 14,447.‡ It has increased to 28,835; the number officially reported in 1821. This does not include the whole of the Hottentot population; but it does comprehend many of the bastard offspring of Hottentot mothers by European or Creole fathers.

Official returns of other free inhabitants have uniformly been more correct. They exhibit a quicker growth of populousness.

1798.	1806.	1810.	1814.	1819.	1821.
21,746	25,172	30,937	34,339	42,854	51,561

This very rapid increase has, doubtless, been partly owing to immigration; and notably in the year 1820, when more than 4,000 persons arrived as settlers. §

Emigration from Great Britain to South Africa, so far as can be ascertained, had previously been—

In 1815	46	In 1818	230
1816	85	1819	429
1817	419.		

* S. Af. ii. 378. (1st ed.)

† Including settlers who arrived in 1820. Add slaves, more registered than reported to the tax-office, 2,141.

‡ S. A. ii. 378.

§ Landed in Algoa Bay, 3,659; besides those landed in Saldanha Bay, and a very few in Table Bay.

As the proportion of male emigrants is always greatest, a disparity of the sexes has been uniformly shown by the census of every year. The ratio of males to females was nearly the same for thirteen years, from 1806 to 1819, viz. 11 to 10. It was 10 to 9 in 1821. The actual number of females, nearly 25,000 in 1821, answers to a settled population of more than 50,000 free inhabitants of both sexes.

Deaths, according to the Register of 1821, are to the whole free population as 1 in 50. Births more than twice as many.

Among slaves, the disparity of the sexes was very great, while importation was permitted: for more males than females were constantly imported. The proportion was in consequence nearly 19 to 10. But since the abolition of the slave trade, the number of females is augmenting; and by degrees approximating to equality with that of males; as might be expected. Confining the attention to females, as it is their offspring which is born to slavery, without any reference to the servitude or freedom of the father, the ratio of annual increase appears to have risen from 2 per cent. to 25 per mille.

This likewise was a result to be looked for. Full grown slaves were relatively numerous, while the slave trade continued; and mortality among them was, of course, relatively great. It is rated by Barrow* at 3 per cent. annually. It is now short of 2 per cent.; and among female slaves, barely exceeds 15 per mille. Births are as 4 per cent.

A remark, however, should be here made. The registry of slaves, which may be implicitly trusted for the number existing at given dates, is not equally to be relied upon for intermediate casualties. No owner, indeed, will neglect to register his young slave, lest the property be forfeited, and the child become free; nor will he omit to report the death of a registered slave, lest the poll-tax continue to be payable. Yet a few slave children die in early infancy, previous to registration; as some free-born infants die before baptism: and neither the births nor the deaths of such children are officially reported. This presumable source of error affects the proportion of deaths and births, but not their difference, which determines the ratio of increase to the population.

The register of slaves exhibits a greater number than the official returns of taxes, as has been before intimated; probably runaway slaves are included in the register, and suppressed in the tax-returns. The registry is continued, as the claim of property is retained; for the sale of a runaway, untaken, is no unfrequent transaction. Every week's Gazette contains advertisements of such sales. Yet that is not the chief source of disagreement

* S. Af. ii. 344.

between the register and the *opgaaf;* for the discrepancy is greatest in respect of females; but runaway slaves, are for the most part male.

The number of female slaves, at the beginning of the year 1821, was 14,000; and, increasing at the rate of 25 per mille annually, would be doubled in 28 years; or, allowing for that increase being not immediately prolific, in about 30 years. For the annual augmentation of the number of female breeders is not exactly proportionate to the total increase of females within the year: but to that of a former year. The ratio of 25 per mille, when the increase took place, is nearer to 2 per cent. when it becomes available for an augmentation of breeding females.

The number of male slaves, at the same date, in 1821, exceeded 20,000; and the probable increase, in the like period of 30 years, may raise it to 32,000.

	SLAVES.							
	Per Opgaff.						Per Registry.	
	1798	1806	1810	1814	1819	1821	1820	1821
Male . .	16882	18956	19821	19862	19507	19164	20098	20312
Female .	8872	10163	10600	11366	12802	13024	13743	14017
Total .	25754	29119	30421	31128	32309	32188	33841	34329

Emancipation of slaves sometimes taking place, tends, so far as it goes, to augment the free population, and to detract from the increase of slaves. The number set free is not great; (no more than six male slaves and twenty-six females were manumitted in the course of one year, 1820;) and the general result, therefore, is not much influenced by this cause.

Another class of persons remains to be noticed. It consists of prize-slaves, or people rescued from illegal slave trade, who have been bound to service for a term of years, and are reported in the census as apprentices. In 1819, the number was 1,373; viz. 961 male and 412 female: in 1821, 1,369; viz. 918 male and 451 female.

Other apprentices, whether expressly articled as such, or becoming so by operation of law, are blended with freemen or with slaves, under one or the other designation. The master of a Hottentot servant, who is at the charge of bringing up his servant's children, is entitled to the service of each child, as an apprentice, for a definite term; that is, to a specific age. The master of a rescued slave, or prize apprentice, will, probably, be deemed, in like manner, entitled to the service of the offspring

born and bred up in his family. The whole class falls then naturally among free persons of colour.

A question, not devoid of interest, arises concerning the disposal of prize-apprentices, on the expiration of the term (14 years) for which they are bound. They neither can be held in thraldom, with any semblance of justice, after that term expires; nor can they be with safety cast loose, and abandoned to their own sole guidance and discretion. Fancy may conjecture a middle course as likely to be pursued. Perhaps they may be required to bind themselves in annual service, but allowed to seek masters for themselves, in the first instance; subject to be treated as vagabonds if they remain out of service or employment, and with no visible means of livelihood; and liable, therefore, as the penalty of their vagrancy, to be articled anew, for a limited term, to a master selected by the magistrate.

Data are wanting to distinguish the proportion of free persons of colour among the Creole population. A conjectural estimate may, however, be deduced from the relative numbers among householders in Cape Town. The whole of the free population of the town, according to the census of 1821, was 9,761; enumerated householders were, at the same time, 1,553; and among these, 160 appear to have been persons of colour; Christian and Muhammedan. The proportion, therefore, is rather more than a tenth, and would imply nearly a thousand persons for the whole number resident in Cape Town. Mr. Barrow* reckoned 718 in the Cape district, in 1798, when the total of free population in that district was rated at 6,261. The proportion then was little more than a ninth. It certainly is even less in the country than it is in the town; and free persons of colour (exclusive of Hottentots) are by no means numerous throughout the colony, nor fast increasing.

The census of the Cape, deduced from returns to the tax-office, does not comprise sojourners; nor the troops in garrison; nor crews of ships in harbour; nor those of vessels belonging to the port, but voyaging; nor unsettled inhabitants, homeless and roaming, as runaway slaves, wandering Hottentots, and servants out of place. Without taking these to be numerous, yet added to presumed concealment or suppression, in official returns, they strengthen the opinion which is prevalent, that the actual population of South Africa is greater than has been stated. It may be safely affirmed to exceed 120,000 persons in the present year (1822).

Cape Town, which, in 1798,† was estimated to contain about 5,500 white inhabitants and free people of colour, and 10,000 blacks; and which in 1806, according to the census then taken,

* S. Af. ii. 312. † Barrow's S. Af. ii. 340.

did contain 6,435 of the one class, and 9,993 of the other; is now inhabited by nearly ten thousand of each description; viz. in 1821, free inhabitants, 9761; slaves, apprentices, and Hottentots, 9,661.

Cape District, including Cape Town and Simon's Town, had a population of 18,152 in 1798; and 23,998 in 1806; according to the census taken in those years respectively. It now contains 26,487 persons, according to a recent census corrected by the registry of slaves. The number of slaves in the district has not increased. It was in 1798, 11,891; in 1810, 12,084; in 1821, 11,784. The augmentation has been among the free inhabitants, from 6,261 to 12,345; nearly doubled in 23 years.

The more rapid increase is in the eastern division of the colony, Graaf Reynet, which contained 4,262 free inhabitants, according to the census of 1798, and 5,786, according to that of 1806 (including the district of Uitenhage). It now contains 14,081; or, with the old and new settlers of Albany, 19,247.

Emigration from the western districts of South Africa has contributed to this quick growth of populousness in the eastern division; and the western districts have nevertheless made great advances in the same time towards doubling their numbers, being increased from 11,223 in 1798, and 13,508 in 1806, to 19,969 in 1821.

It is needless to pursue a detailed comparison farther. Enough has been said to show that the growth is rapid; and that it is so, even apart from immigration. The increase of slaves, without accession from abroad, goes to double their number in thirty years; and a yet quicker augmentation is to be looked for, as marriage becomes more sanctioned, and promiscuous intercourse discountenanced. Hottentots, according to local registers of missionary stations, recording births and deaths, multiply at a rate which should double their number in twenty-five years. Creoles multiply not less rapidly. It would be no very presumptuous stretch of fore-knowledge, to hazard a prospective estimate of a much augmented population in South Africa, a few years hence.

A curious speculative topic might be proposed, to consider the probability of the population in the South African colony becoming ultimately creole white. At the earliest census which has been published, the free inhabitants (for the most part white) were but one-third of the whole number. According to the latest census, which has been yet made up, they approach to one-half. Would it be too much to expect that the white inhabitants will continue to multiply faster than the black; and that the tinge in mixed blood will grow continually fairer? From moral causes, (or, in another sense, from immoral likewise,) the

offspring is rarely darker than the female parent, but very often fairer. The mixed blood assuredly tends more towards the white than the swarthy hue. In process of time, the same causes, continually operating, may have a sensible influence. In any case, it is devoutly to be hoped, that the population of South Africa will, by and by, exclusively consist of free inhabitants, whatever be their complexion; for the existence of slavery is an evil, of which the removal is to be earnestly desired.

This reflexion appertains to a different subject, abrogation of slavery and emancipation of slaves.

Statement of the Population, and of the Quantity of Lands in the Possession of Individuals at the Cape of Good Hope, in 1821.

	Inhabitants.		Hottentots.		Apprentices.		Slaves.		Freehold.				Quit Rents.		Loan Places.	Govt. Farms.
	Men.	Women.	Men.	Women.	Men.	Women.	Men.	Women.	Places.	Erven.	Morgen.	Roods.	Morgen.	Roods.		
Cape Town	4801	4960	199	26..	459	306	4099	3135								
Cape District	1401	1183	452	385	282	74	2370	1156	177	49	10609	496 87ft.	53387	484 121f.	97	41
Stellenbosch ditto	2867	2677	874	927	106	45	5588	5297	422½	388½	21927	420 3ft.	77464	460 119f.	128⅔	
Swellendam ditto	3282	2983	1654	1473	27	6	1619	1282	28	104	—	—	45426	638	427	
Graaf Reinet ditto	5810	5215	5474	5816	9	5	1526	1113	—	1954	3013	450	54325	53	326½	
Uitenhage ditto	1679	1387	1786	1774	23	12	409	373	5	60	—	—	—	—	21	
Tulbagh ditto	2494	2246	2290	2270	11	3	2434	1706	34½	85	386	—	21837	16	551	
George ditto	1813	1557	1306	1326	1	—	936	792	95	—	—	—	—	—	6	
Albany ditto	830	793	256	310	—	—	183	170								
Total	24977	23001	14291	14544	918	451	19164	13024	762	882	35887	166 47/72	257441	452¾	1557⅛	41

According to the Opgaaf Rolls, there are in the District of Uitenhage . 191 Quit Rent Places.
George . 226 Ditto
Swellendam 15 Ditto
Tulbagh . 23 Of which the number of Morgen is not mentioned.

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RECAPITULATION.

	Population.				
	1806	1810	1814	1819	1821
Souls	75,145	81,122	84,069	99,026	110,370

*** The Population of 1821 is calculated, exclusive of a number of 3,533 settlers arrived at the Cape of Good Hope from Great Britain, and landed in Algoa Bay, in the year 1820.

Sketch of the progressive State of the Measure for Converting *and* Improving *the Land Tenure in the Colony.*

In October, 1814, there were to be converted 2,206 loan places, of which in September, 1821, 410 had been converted, containing 970,800 morgen, paying rds. 25,649. 2. annual rent. Of new land, 680,011⅓ morgen, have been granted, paying rds. 34,412. 6. 1. annual rent. The loan *property places* are permanent property vested in the owners, of which the same number always remains at a fixed annual recognition of 24 rds. for each place. Of 15 years' quit-rent leases, 206 remain, of which 186 have still different periods unexpired, and 20 have at different dates expired, from 1792 to 1820, both inclusive; and these remain, notwithstanding, in the possession of the occupiers without having been renewed.

6th September, 1821.

VI.

WINE.—p. 109.

Cape wine, imported into England, has been notoriously bad. That which is commonly vended at Cape Town is little better. Yet the grape, as a fruit, is here excellent, whether fetched from the garden or the vineyard. Is South Africa (or that portion of it in which vineyards have been yet tried) incapable of producing good wine? Or is the prevalent bad quality of it to be ascribed to ill management? The sweet wine of Constantia, and a few other favourable specimens of both dry and sweet wines, furnish an answer to the first question; for, where some good is made, more might be so. The climate is not unsuitable. Its mean temperature, its utmost summer heat, its greatest cold, are within the limits of the warmer climates of South Europe. It is dry and sultry, but not more so than in the southern parts of Spain. Soil may be selected, aspects may be chosen, not unlike those where good vines grow in Europe. The fault, then, must be in the management. But in what stage of it does the defect chiefly lie? The greatest part of the wine which has been imported into England has positive ill qualities. Among these the most prominent is, an earthy taste; and next to that is, a prevalent dilute flavour of muscadel. Perhaps another fault should have been put in the foreground—an undisguised taste of brandy. But as the cause of this is obvious, it had no place in the problem to be investigated, though it would occupy the chief one in the consideration of a remedy. The whole topic had been recommended

to my attention by more than one person in England, and I had otherwise abundant inducements to enter earnestly upon the inquiry. I found every one sufficiently alive to the subject. The very low price for which Cape wine had been recently sold in London, alarmed the merchants; the reduced prices which they offered to the planters surprised these; every one was mediately or immediately affected by the sudden fall in the value of this, the most important article of South African commerce.

Allusion has been made to one of the causes of deterioration of Cape wine—the injudicious addition of brandy, to *prepare* it for present use or direct sale. Even the purest alcohol, introduced in too large a quantity, or more moderately, but too near the time for using the wine, will communicate an overpowering spirituous taste; and, if the spirits carry with them any particular extraneous flavour, whether acceptable to dram drinkers, or unpalatable to every one, the particular flavour will predominate in the mixture, which is no longer wine, but spirits diluted with wine. If alcohol is to be at all admitted, or if it must be introduced, it should be in an earlier stage of the vinous fermentation, when the wine is yet new; or the mixture should be long kept, until insensible fermentation, which is constantly proceeding in wine of whatever age, shall have blended the ingredients, and mellowed the compound. But this would be beside the purpose, which is, to *prepare* the liquor for immediate use. The addition of brandy would be needless, were the wine to be afterwards long kept; prolonged fermentation would have itself sufficed to develope alcohol and strengthen the liquor.

As to the prevalence of the muscadel taste in the Cape wines, imported into England, it is in like manner owing to mismanagement of merchants more than of planters. The grape most generally and extensively cultivated in the vineyards of South Africa, as hardiest and most productive, is entirely devoid of that flavour: it is the *groene druyf*, or *green grape* (so called, including both white and red varieties). From this grape a wine is made, which, kept to a third year, or for a longer time, has a strong body and no bad flavour. *Prepared* for earlier use, with aid of brandy, it becomes *Cape Madeira*. Next in frequency is the *stein druyf*, or stone grape, white and red, affording a light wine, assimilated to Rhenish, and, as the foregoing, devoid of the taste in question. Other varieties of the vine, commonly cultivated, are the haumipaut, the lachryma-christi, the pontac, the frontigman, and the muscadel, both violet and white. From the last-mentioned, sweet and dry wines are made. The dry wine of those high flavoured grapes retains but slightly their peculiar flavour. The respective sweet wines powerfully do so; and there can be little doubt, that sweet muscadel has frequently been added by merchants, to give flavour to wines which they

deemed insipid. The truth is, that dealers at Cape Town have considered the wines which they purchase from planters, not as ready-made merchandise, but as raw materials, to be altered and fashioned according to their own taste and judgment. An injudicious tampering with it has deteriorated instead of improving the commodity. Dealers have made an indiscriminate mixture of all sorts of wine coming into their hands, and completed the *preparation* with an over-dose of brandy; or they have added sweet wine, or boiled must, fermented for the purpose, like *rasped* wine in France,* to correct the acescency of too weak a vinous liquor. The addition of sweet wine, rather than brandy, to an acescent liquor, would be well judged, provided one be taken that does not introduce a predominant peculiar taste. But neither muscadel, nor frontignan, is desirable in wine of so different a character, as that obtained from the *groene* and the *stein druyven*. It taints the mixture, instead of communicating an appropriate character to it.

The blame has here been imputed to wine merchants rather than to planters, because it is by no means a general practice with these to mix in the fermenting vats grapes of various sorts. Some undoubtedly do so, and they do wrong; but others carefully separate, at their vintage, the different varieties of grape produced in their vineyards.

It is a well known fact, that the individual, who dealt most largely in wine for several years after the opening of the trade on the present footing of low duties on it in London, proffered and gave to the wine boers one uniform price for all wine which they furnished him, whatever might be the denomination or quality. This indiscriminate purchase was followed by as undistinguishing sale. A heterogeneous mixture of divers sorts of wine, dashed unsparingly with brandy, went to market as *Cape Madeira*.

This rash proceeding has been attended with very mischievous consequences. The wine boers were encouraged to make the greatest possible quantity of wine, with entire disregard of its quality. They took to irrigating their vineyards, wherever they have command of water to effect it. The result has been, an abundant production of a weak, insipid, or acidulous wine, from flooded vineyards. These misguided boers purposely induced, what elsewhere wine farmers earnestly deprecate—a wet season. A vineyard is thus brought into the state, to which incessant rain would have reduced it. Both the merchant and the wine boers are now, indeed, awakened to a sense of their error. But the mischief endures, because the boers imagine, that a vineyard, once accustomed to be watered, would be unproductive were irrigation discontinued. This, probably, is mere prejudice; and,

* Vin rapé. At the Cape, wine made of boiled must is used for the same end.

in corroboration of such a view of it, I am enabled to cite the instance of a planter,* who tried irrigation upon an old vineyard for two years, and, finding that he made bad and sour wine, where he before made good, has disused it, and retrieved the character of his production, by leaving off that ill practice.

The poorest and worst wine does not now, as then, fetch the same price with that of a better description. But the disparity between superior and inferior qualities, between *fyn wyn* and *wyn ordinaire*, is not so marked as to furnish a sufficient incentive to the planter's utmost exertions for the production of the best quality. The lowest price that came to my knowledge was 35 rix-dollars per *legger*, one year old; the highest, short of 100, for the same age. The disproportion in value of select and common wines is in other wine-making countries very much greater.

On the cause of the ground-taste, or earthy flavour, noticed as prevalent in Cape wine, I can offer no decided opinion. But as to the reason of its prevalence, in that which is imported into England, I entertain no doubt. It is, unquestionably, owing to the mixture of wine by dealers in that article. Instead of rejecting every sample, in which the ground-taste is in any the smallest degree perceptible, or reserving such inferior specimens to be disposed of for home consumption of the vulgar, the attempt has been made to weaken and disguise the ill taste. In the result the evil is diffused rather than palliated. I should have confidently ascribed the ground-taste of Cape wines to the ill practice of watering vineyards, more particularly those of which the soil or subsoil is notably argillaceous, if the same earthy taste had not been noticed and complained of, before irrigation was introduced and abused.

Mr. Barrow† speaks of it as occasioned by bunches of grapes resting on the ground, for want of props or espaliers, and by a slovenly process of making the wine. The latter may not, improbably, be the true cause; and, assuredly, good wine is not to be made without much care. It is certain, too, that the grape loses all its good qualities, if it hang so as to touch the ground.‡ But it has not occurred to the best writers on the fabrication of wine in France, to attribute the ground-taste *(le gout du terroir)* to that circumstance.

Upon the whole, I incline to the opinion, that the earthy taste of Cape wines is derived from the soil (or under-soil) of vineyards, where this is, as in many places it is, an argillaceous or a sandy loam, containing alluvial clay. I know that the taste is

* Martinus Smut, of Riebeck Kasteel. I was told so on the spot by his brother, Michael Smut. Both are noted for the good quality of the wine commonly made by them.

† Travels in South Africa, ii. 432. (1st ed.); 156 and 319. (2d ed.)

‡ Chaptal, Essai sur le Vin, 294.

not universal; and I have observed it in no wine which came from soil deriving its clay directly from decomposed felspar.

Irrigation has probably aggravated the evil in alluvial and manured soil. The sap in a vine watered is not sufficiently elaborated. Water, drawn up too quickly into the vegetable circulation, carries with it particles of earth or mould unaltered; and among them, perhaps, portions of clay or of manure, which convey an undesirable flavour to the juices of the vine.

Among various surmises, regarding the origin of the bad taste of Cape wines, one remains to be noticed, which should not be passed by, as the objection, perhaps, tends to mislead. I allude to the practice of burning sulphur matches in vats and casks before they are used. So far from being wrong, as has been supposed and affirmed, it is at least unexceptionable, if not essential, to a right treatment of wine. It is advised by professed writers on wine making,* and the experience of every wine country is in its favour. It promotes the deposition of tartar; and, rightly managed, communicates no bad taste to wine, and on every account should not be discountenanced.

Another surmise concerning the *ground taste*, which has not, however, been alleged in respect of Cape wines, is, that it may be owing to weeds. The vineyards of the Cape do not so abound with plants of spontaneous growth, as to render it probable that the *ground taste* can be here owing to that cause.

It has been made a question, whether the usual situation of vineyards at the Cape of Good Hope, any more than their soil, has been rightly chosen. The vines of South Africa are planted in valleys, either upon gentle acclivities, or on nearly level ground. In most wine countries the best vineyards are upon the sides of rather steep hills, and especially towards the middle of the acclivity. Since the days of Virgil, the open hill has been celebrated as the favourite position of the wine-bearing vine. But it is by no means exclusively the sole position fitted to the production of good wine. A gentle slope, or absolutely even ground, is in many places the site of far-famed vineyards, for instance, Bourdeaux and Lisbon.

In general, the steep sides of South African mountains are too barren and destitute of soil, to support vines or any other plantation. But the glens of hills, wherever there is soil to support vegetation, are planted with vineyards, and these are among the best in South Africa, for instance, the Paarl, Paerdeberg, Riebeck Kasteel, and Groeneberg.

The best soil for a vineyard, according to experience in other countries, appears to be either calcareous or volcanic ground, or else mouldering granite. Strong clayey land is not proper for the vine, nor yet a loose sand; but dry, light, stony ground,

* Chaptal, Rosier, &c.

especially calcareous. Volcanic soil is known to produce good wine. Some of the most famed vineyards of Europe are placed amidst extinct volcanoes. Decomposed granite, likewise, furnishes good soil for vines. The celebrated Hermitage wine is the produce of such ground.

Volcanic soil is nearly unknown to South Africa; calcareous ground scarcely exists in the older part of the colony. The exception here hinted at regards an alluvial calcareous sand-stone, to be found in the isthmus of the Cape, and a shell lime-stone, in a few spots within the inland mountains. Compact lime-stone abounds in the new settled districts, eastward, where vineyards are yet to be planted.

Mouldering granite is frequent in the older part of the colony, and many ancient approved vineyards are in such ground. But in some of the valleys, where vines are planted, the soil is fluviatile, consisting of alluvial clay, resembling silt. The mixture of this with sand, in various proportions, constitutes it either a sandy or a clayey loam. Both, probably, are ill adapted to the vine.

The practice of manuring vineyards with stable dung, which prevails at the Cape, is of questionable advantage. In some of the wine countries of Europe the same practice undoubtedly is followed; but in others all animal manure, including dung, is proscribed. The use of composts and of calcareous dressings is to be preferred. The ground-taste of Cape wines is not improbably owing to the practice of manuring with horse-dung, as already observed.

The want of vine-props in the vineyards of the Cape has been mentioned as an imputed defect, and even as a supposed cause of the prevalent ground-taste of Cape wines. It is acknowledged that the fruit is spoiled (for it rots) if the bunch touch the ground. But the best writers on the management of vineyards advise, that the plant should be low, on level, or nearly even ground; and it is not uncommonly left to self-support in the South of France. A low vine ripens its fruit better than a high one. The intense heat of reflected sunshine extends to little elevation above the earth's surface; and reflected heat much exceeds that of the direct rays of the sun. Properly pruned, the vine soon acquires strength to uphold its annual shoots; and in an old vineyard, the stem is high enough to keep its branches and the fruit upon them from the ground.

In regard to the process of making wine, which is considered to be in general slovenly, as it is now conducted by the boers of South Africa, greater care to exclude both rotten and unripe grapes, and more attention to keep apart the vintage of distinct sorts, than now applied, may be strenuously advised. But vain is the care of the wine boer in this respect, if select wines are to

be wasted, as heretofore, in an ineffectual attempt to meliorate the ordinary wine of the country, or, as has been also practised, in eking out a few casks of good wine into many indifferent, by mixing with it other of inferior quality. Were the common wine of any the most famed country, Bungundy or Bourdeaux, sent to distant markets with no discrimination or choice, it would soon gain a bad character. The *vin du pays*, the *wyn ordinaire*, is not fit for foreign export; it can bear no distant transport, and is suited but for common use of labourers and servants.

Best wines must be selected, and they must be reserved to their maturity. The want of age is not to be remedied by an affusion of brandy or of rum. Specimens of choice wine, mellowed by keeping, are to be tasted at the houses of the boers. These strong bodied wines require three years, at the least, for their maturity. But exported Cape wine is at market in London before a year and a half elapses from the time of the vintage. Wine, that is within that period ripe, is unfit for exportation; for it is too weak to bear so long a sea voyage as is that from the Cape to England; and wine that can sustain the voyage, is not so early ripe, though no doubt sooner than that which is retained at home; for the voyage contributes to accelerate the mellowness of wine. Brandy is no proper remedy in either case. Weak wine should be retained for home consumption; strong wine, or what is susceptible of becoming so, should be kept till its mellowness be sufficiently advanced. Either the boer or the merchant must enlarge his cellar and augment his capital, to keep wine for at least another year: at present the wine-boer clears his cellar, before the new vintage commences. A regulation, of which the policy may be doubted, restricts the inland import of wine into Cape Town, to a short period preceding the vintage. The object of it is to preclude the mixture of new wine with old. The boer is thus enforced to part with his stock to the town merchant, before the year is expired. The merchant hastens to *prepare* it with brandy or with rum,* for the purpose of shipping it for England, with all expedition. His cellar is cleared before the inland import recommences. The English importer is in no less hurry to dispose of his importation in London.

A notion has been entertained, that the various wines of Europe may be exactly imitated at the Cape by a suitable treatment, or, in other words, that any given sort, of any assigned quality, may be here made. It requires, as is thought, but the introduction of the proper grape, with correct information as to the nature of the

* Perhaps it will scarcely be credited, that rum is employed at the Cape in the *preparation* of wine. I should not have hazarded the imputation, had I not direct testimony to the fact. Rum has been imported at Cape Town, purposely for this use.

soil which that variety of grape affects; and the consequent cultivation of it in appropriate soil; and subsequently copying, with precision, the process followed where such wine has been usually made. The idea has been acted upon; and means have been taken to give it effect. Much benefit may, no doubt, be expected to arise from the introduction of untried varieties of grapes, some of which, upon a well conducted trial of them, may not improbably be found preferable to any of the sorts hitherto cultivated in South Africa; and more knowledge of the choice of soil, method of culture, and process of wine-making, cannot fail of leading to improvement; though the precise object, which is sought, should not be attained.

The distinctive character of any particular wine depends upon so many circumstances, any one of which being varied occasions a difference of result, that hopes of rivalling it by direct imitation, can hardly be entertained. The Maurillon grape of Burgundy is said to have been long since introduced into South Africa, and to have been many years cultivated there; but the quality of the grape is entirely changed, and it yields a wine in no respect resembling Burgundy.*

But without looking to an exact imitation of the choicest wines of Europe, or to emulation of their particular excellence, it may be affirmed that the climate of South Africa is suited to the vine; and that soil, aspect and position, adapted to vineyards, are to be found. A small quantity of good wine is made there, and much which is bad. Where some good wine is produced, more, as is presumable, might be so, by due care in the fabrication of wine, and right management in the culture of the vine; and what is not less essential, proper treatment of wine after it is made. Let good wine be selected; let it be preserved genuine; let it be kept to its maturity; and the character of Cape wine may be retrieved.

The good sense of the merchant and of the planter, a right judgment of their truest interests, which they would best consult by so dealing, may produce this result. It would be sanguine to expect it, until the example of some one individual, uniting both characters, and sending choice wine of his own growth to the London market, unmixed and mellow, shall demonstrate that greater gain is to be thus obtained than by any methods of adulteration.

Perhaps some approach to the same result might be expected from the rigid execution of the duties of a wine-taster; were this office, which has been some years instituted at the Cape, administered with the rigour requisite to make it effectual for

* Chaptal, i. 264. An essay on Wine-making, written and published at the Cape, asserts the same fact.

any good purpose. This would place the wine trade under very strict pupilage, as it has been in more than one country of Europe. It is, however, a course not congenial to British feelings. The controul of a wine-taster is liable to abuse; and, what is almost as bad, to suspicion of abuse. Trade is fettered by it; and, after all, may not be improved. Certainly it has not yet been bettered by the institution of that office, which, hitherto, has been but a tax and a burden.

ABSTRACT OF A METEOROLOGICAL DIARY AT CAPE TOWN.

	BAROMETER.					THERMOMETER.				
	1818.	1819.	1820.	1821.	Mean.	1818.	1819.	1820.	1821.	Mean.
January	—	30.21 30.09 29.78	30.26 30.11 29.9	30.3 30.19 29.6	30.13	—	96 — 76 77⅔ 78 — 68	94 — 75 74⅔ 78 — 68	86 — 74 75¼ 72 — 64	76°
February	—	30.1 30.05 29.98	30.1 30.08 29.94	30.3 30.21 29.98	30.11	—	94 — 76 78½ 89 — 69	94 — 78 77⅔ 78 — 68	92 — 80 80¼ 84 — 72	79
March	—	30.23 30.12 29.96	30.36 30.21 29.94	30.34 30.22 30.	30.18	—	92 — 74 72⅔ 65 — 56	93 — 70 76½ 82 — 64	88 — 80 75½ 76 — 68	75
April	—	30.52 30.10 29.56	30.46 30.13 30.	30.32 30.185 29.7	30.14	—	83 — 64 64 64 — 52	84 — 66 72⅔ 67 — 62	80 — 69 64¼ 64 — 60	67
May	—	30.4 30.17 30.	30.32 30.19 30.09	30.14 30.27 30.1	30.21	—	86 — 65 64 66 — 50	75 — 68 60⅔ 60 — 54	78 — 63 60½ 61 — 57	62
June	—	30.3 30.08 29.6	30.4 30.19 30.01	30.6 30.295 30.3	30.19	—	67 — 55 55¾ 60 — 48	74 — 5 59½ 59 — 50	71 — 61 57⅔ 54 — 52	57⅔
July	—	30.43 30.23 29.9	30.08 30.27 30.	30.3 30.35 30.1	30.28	—	70 — 53 56⅔ 66 — 51	73 — 67 57⅔ 55 — 50	66 — 93 57¼ 55 — 53	57¼
August	—	30.52 30.25 29.99	30.33 30.26 30.05	— —	30.25	—	70 — 55 60½ 66 — 51	67 — 53 58¾ 60 — 50	— —	60
September	30.4 30.17 29.99	30.43 30.23 29.9	30.43 30.25 29.96	— —	30.22	86 — 76 67° 65 — 48	78 — 45 58½ 60 — 50	75 — 60 63¾ 63 — 55	— —	63
October	30.4 30.21 29.92	30.32 30.19 29.9	30.34 30.26 30.	— —	30.22	80 — 65 60 71 — 48	82 — 60 64⅔ 63 — 50	80 — 67 65 63 — 55	— —	68
November	30.27 30 13 29.96	30.47 30.19 29.94	30.3 30.27 29.93	— —	30.2	94 — 71 71 66 — 56	95 — 75 73½ 66 — 55	96 — 88 76 80 — 65	— —	73¼
December	30.2 30.15 29.52	30.27 30.11 29.9	30.37 30.21 30.	— —	30.16	92 — 72 76 86 — 64	93 — 65 72½ 76 — 55	87 — 66 76½ 81 — 65	— —	75
Mean	—	30.15	30.2	—	30.18	—	66⅔	68¼	—	67½

VIII.

BRANDY.—See p. 169.

The brandy of the Cape is yet worse than the wine. It is, without exception, bad; and its ill taste is indisputably owing to a faulty method of making it: the defects of which are easily pointed out, and as easily remedied. That it should be remedied, is very material; for no mechanical wine-press being employed at any vineyard of South Africa, much fermented or unfermented grape-juice is left with the murk* imperfectly pressed, no use of which is made beside drawing brandy from it.

To the murk water is added; and after sufficient fermentation, the whole, liquid with solid, low wine, with husks, stalk and seeds, is put into the *brandy-kettle*, and distilled over an open fire.

The topic of distillation of brandies from lees of wine, and from the murk or cake left by the wine-press, has undergone such ample discussion and full consideration of chemists and professed distillers, in France especially, that it is only necessary to refer to their writings.†

Upon the result of all that has been said, or has been written, as deduced from the amplest experience, it seems to be evident, that no precaution short of that of straining the wash or low wine, and carefully excluding the drained lees and *wine-cake*, (the *wein-trester* or *murk*,) putting into the still only a clear vinous liquid, can be effectual for obtaining, by distillation, a pure and well-tasted spirituous educt: and this method I confidently recommend.

From ill-flavoured brandy, pure alcohol, devoid of any ill taste, may, indeed, be obtained by rectifying it with due precaution; and accordingly no small quantity of Cape brandy is rectified at a large distillery near Cape Town, and disguised and sold for French brandy, after lowering it to the standard of proof spirit, and infusing into it the peculiar flavour of brandy. This process of rectification would probably be needless, if the spirit were at the first distilled from a clear wash or low wine, instead of being drawn from moistened and fermented murk, contaminated with the ground taste.

The only useful purpose of rectifying the spirit might be to obtain a less dilute alcohol, to be introduced into wine for strengthening of it, if it must be strengthened by such a mixture. More body would thus be given with a less dose of purer

* *Marc de raisin*; *Wein-trester*; *bagaço*; Anglicé, murk.
† Parmentier, Normand, &c.

spirit; and useless introduction of water would be avoided. But so far are merchants of Cape Town from being aware of this benefit, that they actually lower the spirits with water, if over-proof, before they put them into wine, as I am assured on authority of an intelligent chemist who, in vain, sought to dissuade them in more than one instance.

IX.

FAIRS.—See p. 120.

The establishment of fairs and periodical markets, recommended so long ago as in Barrow's Travels,* has not yet taken place; unless in the instance of two annual fairs near the frontier, for interchange of commodities with the natives of countries beyond the limits of the colony. The distinguished author, just cited, proposed their institution at Algoa, Saldanha, Plettenberg's and Mossel Bays; and he anticipated, as a consequence of the institution of markets, the immediate rise of villages at those places. Since he wrote, small towns or villages have been founded in the vicinity of three of those bays—George Town, near Mossel Bay; Bathurst, in the neighbourhood of Algoa Bay; Uitenhage, in that of Plettenberg's Bay; besides missionary-stations, or Hottentot villages, at Theopolis, &c.

In place of choosing sea-ports, the scheme may be varied to propose the institution of fairs or periodical markets in every small town already established, wherever there is a local magistrate, whether landdrost or sub-landdrost, stationed; or wherever a church has been founded; (taking this as a criterion of competent access and sufficient resort;) or else wherever a frequented high-road traverses the place, and affords facility to traffic.

Fairs are no where more wanted than in thinly peopled tracts: and public markets, held at appointed times, are essential to the prosperity of a country, whether populous or unpopulous. The peasant has not, and cannot every where have, a shop at hand, to which he may resort for the prompt supply of his wants. Nor has he always in his neighbourhood a ready purchaser of his agricultural produce. If he repair to the nearest village, he is not assured of finding there for sale the articles which he needs; nor of meeting there with a purchaser for those which he has to dispose of. He is under the necessity, then, of wasting a yet greater portion of valuable time, in travelling from distant places

* Vol. ii.

to the metropolis, to sell a load or two of produce, and bring back a scanty supply of wrought goods. Or he must be content to forego the use of well-wrought goods, and employ, in a clumsy domestic fabrication, industry which would be better directed to raise raw materials of manufacture; and consequently he misapplies materials which would be better exchanged for the finished productions of improved machinery and refined skill. Thus the African boer, his negro slaves, and his Hottentot servants, are clad in sheep-skins, and ill tanned cow-hides, instead of bartering them for linen and woollen apparel; and thus in remote districts and sequestered places, no agricultural produce is raised, or sought to be raised, beyond a provision for immediate wants, and for direct consumption on the spot.

Let markets be held, from time to time, at places convenient; let cattle-fairs be appointed at fit seasons; and, no doubt, venders of commodities, suited to the wants of the boers, will resort to the fairs; buyers of cattle will frequent the markets; peasants will bring the surplus of their herds and of their flocks, and the produce of fields and gardens, to barter for goods, which they need, or which they may learn to desire. With facility of supply, the consumption of commodities will increase.

New wants arise with facility of gratifying them, and furnish incentives for augmented industry. Apprised of a place and time of meeting, buyers and sellers assemble. Competition insures abundant supply and equitable prices.

The whole country would assume a new face: merchandise would be brought within the peasant's reach, and the produce of his farm would be taken in return, without waste of his time; and activity, now unknown, would be infused into commerce and agriculture.

X.

SETTLERS.—See p. 178.

Without concurring with the author in all that is said on this topic, nor in deprecating measures for the promotion of colonization at the Cape, I am inclined to think, that the recent plan of settlement was not well devised, and that it has not been rightly conducted, nor properly executed. It has indeed encountered, in a succession of unfavourable seasons, a most serious obstacle to its success. With such disadvantage, the best arranged plan could not have prospered. But had the seasons been ever so favourable, the settlers must, as I apprehend, have met disappointment; for the scheme of their emigration was grounded on

erroneous notions of South Africa in general, and of the particular districts to which emigration was directed.

The early colonists of South Africa sat themselves down on fertile spots, near springs of water, encompassed by an extensive waste. The wide range which they took, and which was ratified by the colonial government, to an extent of nearly five thousand acres, allowed to each occupant,* has been thought unnecessary ;† and it has been imagined, that colonists might from the first have been placed much nearer to each other, or, at any rate, that more neighbourly colonization would now be more successful.

But the truth is that in a country so arid, and where by far the greatest part of the land is sterile, spots eligible for a first settlement are unfrequent. A first settler should have water at hand, soil naturally fertile contiguous, and sufficient pasturage for cattle adjacent. In process of time, with an increase of populousness, art comes in aid of nature. Soil less fertile is, by dint of industry, rendered productive. Water is sought beneath the surface, or is arrested in its course, and retained above it. Cultivated fodder assists natural herbage to support more cattle with less ample range of pasture. The original sketch of settlement is gradually filled up by husbandmen settling nearer to each other than before; and, finally, as close a pressure of populousness takes place, as improved husbandry may comport. In the older part of the colony progress has been made towards filling up the outline. The two districts which are nearest to the metropolis of South Africa (viz. the Cape district and Stellenbosch), contain twice as many free inhabitants as they did twenty years ago ;‡ and there is yet ample room for further growth of populousness in the same ratio, and it appears to be actually in progress. But though inhabitants have multiplied, it is not clear that farms are much diminished in size. Estates have been in some cases subdivided; and in others, on the contrary, have accumulated by purchase and succession, in fewer hands ;* and upon the whole, the number of land-boers has not increased in exact proportion with the populousness of the districts: for husbandry is not arrived at that point of improvement, in which smaller farms than have yet been customary here, may be managed with advantage.

* The tenure of loan places has been rendered convertible into perpetual quit-rent. Four hundred and ten loan places, converted into a perpetual tenure, and surveyed and assessed accordingly, between 1814 and 1821, contain, by measurement, 970,800 morgen: the average is 2,363 morgens, equal to 4,900 acres nearly.

† Barrow's Travels in South Africa, ii. 381. (1st ed.)

‡ Free Inhabitants

	1798	1806	1810	1814	1819	1821
Cape District (exclusive of Cape Town)	1261	1423	1417	1784	2461	2581
Stellenbosch (exclusive of Tulbagh, Worcester, and Caledon,)	—	—	—	4561	5021	5544

The new plan of colonization, however, proceeded upon the assumption, that the emigrants might sit down in close neighbourhood to each other. Grants of land, offered to the settlers as the inducement of their expatriation, and earned by them at considerable expense attendant on the emigration of themselves and their companions, were restricted to a quantity of land, which in every other part of this colony would be inadequate to the maintenance of the number of persons required to be retained on the granted land, as a condition of the grant. A thousand acres of ordinary ground in South Africa, allotted in due proportion of arable and pasture, will not suffice for the support of ten families, nor for the maintenance of ten adult male servants. Taking a most favourable view, and supposing select spots, and prime land, such as is rare within the colony of the Cape of Good Hope, that quantity of ground would barely be sufficient. But the supposition was inadmissible, for the country was not wholly new nor open to the first choice: the best situations in it had been preoccupied.

It has accordingly happened, that ten times as many people have been conducted to one place as could possibly subsist there. Eighty families were led to Clanwilliam to settle, where eight would scarcely have found scope for their industry. Positions were tendered to settlers, as at Zonder-end River, which upon inspection were declined, or upon trial relinquished. More than three thousand persons* have been settled at Bathurst and in its neighbourhood, upon allotments to which that number of persons could not be confined and live. Many of the settlers are already scattered and dispersed; they have found service with the older colonists, or have flocked to towns for employment. The leaders of emigrant parties have experienced great disappointment, severe loss, and galling distress. Their followers have shared their sufferings, perhaps, however, in a less degree. More enured to privations, the common labourers have less felt them; or, wanting but scope for labour, have fled from hardships, and readily met employment elsewhere.

The emigrant parties were by no means in general well composed. Several of them had been assembled from towns, and consisted of all descriptions of persons but the right one; broken tradesmen, disappointed artists, and not one husbandman; not an individual accustomed to field labour, or acquainted with agricultural work. Under what strange delusion, or unaccountable misapprehension, those persons emigrated, and were engaged to do so, it may be rather difficult to imagine. The one party, as it may be conceived, took refuge from present want in any change, he knew not what; or he may have had no serious inten-

* The number landed at Port Elizabeth, in Algoa Bay, between the middle of April and end of June, 1820, was 3,659.

tion of proceeding as a settler to new land; he sought but means of conveyance to an established colony, where he purposed to fix. The other party, the conductor af the enterprise, must have been careless or misguided, when he enlisted such recruits.

Every exertion has been made by the colonial government to extend relief to the settlers: rations of grain, chiefly rice, have been issued, and still are so; seed-grain has been furnished year after year, and again is so. Calamity has been alleviated, but has pressed sorely, and still does so.

Too much facility is said to have been afforded by the local magistrates to the rescission of engagements between the emigrants and their leaders. I credit this the more readily, as I know that a similar disposition was manifested on another occasion by mistaken and ill-judging magistrates in older parts of the colony.

The emigrants, receiving rations from the government, for which they considered themselves not beholden to their leaders, and being discontented with their situation, whether with or without cause, became, at the very outset, refractory and disobedient. Their labour was withheld, or ill performed; and, in place of correcting the evil, and giving redress where redress was due, the local magistracy aggravated the evil, by cancelling articles, and setting aside engagements, upon slight grounds.

To these causes,—to the distribution of rations immediately from government, instead of passing through middle hands, to be earned from them by labour,—to the inconsiderate annulment of engagements, on flimsy pretences, the early disappointment and unpromising condition of the settlers, even before the failure of their first harvest, are ascribed by impartial and observing persons, who then visited the settlement. The failure of every subsequent crop, through two successive years, has filled up the measure of calamity.

It may be questioned, whether the country itself is quite so favourable for a settlement as supposed by those who advised it. The event has brought under notice the degree in which it is liable to drought. It has this in common with the rest of the eastern part of the colony. The rains are more regular and abundant on the west side of South Africa, than on the east. The rainy winds are from the west, coming overcharged with moisture from the Atlantic ocean. The high continuous chain of mountains, extending north and south, intercepts that moisture, which is condensed and falls in rain upon their western sides, and on the belt of land which intervenes between that chain and the western sea. The eastern side of the high range of mountains more rarely experiences refreshing showers. The south-eastern winds, blowing from a colder towards a warmer region, are less charged with vapour; and that vapour is barely condensed and rendered visible, as a mountain mist on the summits

of high mountains: it does not descend upon the lower hills and valleys. The elevation of the mountainous range declines towards the east, and rain accordingly is there rare and precarious.

The soil, it is said, improves with the decline of elevation. Lime-stone is abundant in Albany. Possibly, I might say not improbably, the soil and climate of the eastern division of South Africa, comprehending Albany and Caffraria, may be found suitable to the culture of the vine. But several years (not fewer than five) must elapse before a vineyard can become productive. Meantime the planter must subsist, and support his labourers. A colony of wine-farmers cannot be established on the sudden.

Concerning Caffraria, I shall say little. The country is described as beautiful. Clumps of trees are there distributed by nature, as in ornamented grounds by art. The scenery is picturesque—the prospect rich and cheerful—the soil is said to be fertile.

A settlement of this tract, commenced by persons who have migrated from the old colony, and who have the benefit of experience there acquired, is more likely to prosper than a colony of strangers from a distant land. Grants have been made to the officers of a reduced African corps, and to other persons who had claims on the liberality of government: they are not unlikely to thrive.

I would not be understood to dissuade emigration from Great Britain to South Africa. Artisans easily find ample employment at Cape Town, and are well rewarded there and in the country around. Husbandmen obtain ready service with planters, and are well paid. The price of labour is high, and likely to continue so; and wherever that is the case, a labourer, who is disposed to be industrious, may be assured of success; such a person may be advised to emigrate to a new country. Persons possessing a moderate capital might employ it at the Cape advantageously. But whether labourer or owner of a capital, an utter stranger is not the best pioneer of civilization. He will do right to establish himself in an older and settled part of the colony, and let the persons whom he displaces migrate to newer lands. An European, emigrating afresh to South Africa, should take up an old employment, analogous to that to which he is used, and leave it to one who has acquired experience there, to explore and open new regions.

The only obstacle to the success of the English emigrant is, the want of sobriety, which is too common a fault among labourers and artisans. The cheapness of wine and of brandy is to many an irresistible temptation, and they become drunken and idle; while the sober Malay or negro labours with more diligence, whether he be in freedom or in slavery, than the sottish free-born Englishman.

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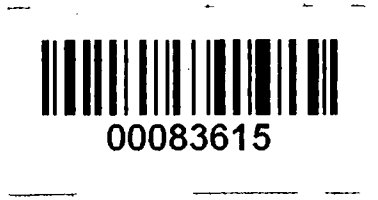
London Printed by C. Roworth,
Bell-yard, Temple-bar.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